



**Work Session OF THE BOARD OF DIRECTORS**  
Thursday, October 3, 2024 - 5:30 PM  
Oakdale Middle School Room 230  
815 S. Oakdale Ave.  
Medford, OR 97501

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**AGENDA**

*This meeting will take place in person. The public may also view the School Board meeting via the following link: <https://portal.stretchinternet.com/msbm/>*

- 1. **Call to Order / Pledge of Allegiance / Roll Call**
- 2. **Agenda Adjustments and Approval**
- 3. **Recognitions**
  - a. National Merit Scholars 2
- 4. **Recess**
- 5. **Work Session Items / Board Action Items**
  - a. Complaints against Board Members 3
  - b. Cell Phones in our Secondary Schools 4
  - c. New Graduation Credit Requirements 9
  - d. Enrollment / Class Size Report 11
  - e. School Board Policies - *first reading* 17
  - f. Schedule Conflict with the November 7th Work Session and the OSBA Conference
- 6. **Consent Agenda**
  - a. Staff Assignment Report 76
  - b. Minutes from previous Board meetings 78
- 7. **Announcements**
  - a. October 17, 2024 - Board Meeting at 5:30 PM - Oakdale Middle School
- 8. **Adjournment**

*The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to the Superintendent's office at (541) 842-3621 or [superintendent.office@medford.k12.or.us](mailto:superintendent.office@medford.k12.or.us).*



## EXECUTIVE SUMMARY

<b>Meeting Date:</b>	October 3, 2024
<b>Agenda Item:</b>	Recognitions
<b>Item Type:</b>	Board Recognitions
<b>Administrator:</b>	Bret Champion, Natalie Hurd
<b>Objective:</b>	Recognition of National Merit Scholarship Award Semifinalists & Commended Scholars

**Background:** There are many outstanding students and staff in the Medford School District, and the Medford School District Board of Directors takes time in each regularly scheduled Board meeting to celebrate many of them. Students may be recognized for a variety of areas, including academics, athletics, arts, career and technical education, and music, or as nominated by school district staff. Staff members may also be nominated for exemplary contributions to the district.

Tonight, we celebrate:

### National Merit Scholarship Award Semifinalists

Seniors whose score placed them in the top 16,000 of all students to take the PSAT last year, representing less than 1% of the nation’s high school graduating seniors, qualify as Semifinalists. They have an opportunity to continue in the competition for some 6,870 National Merit Scholarships to be offered next spring by completing an application to move forward as a finalist in the winter.

#### Jaiden Esquibel

North Medford High School

#### Oliver Mertz

South Medford High School

### National Merit Commended Scholar

A National Merit Commended Scholar is a student who scored in the top 3-4% of all test-takers on the PSAT but did not meet the required score cutoff to advance to the Semifinalist stage. Being named a commended scholar is a significant academic achievement and is often recognized by colleges and universities in their admissions decisions.

#### Rece Moser

South Medford High School

#### Jamie Murphy

South Medford High School



## EXECUTIVE SUMMARY

<b>Meeting Date:</b>	October 3, 2024
<b>Agenda Item:</b>	Complaints against Board Members
<b>Item Type:</b>	Discussion
<b>Administrator:</b>	Board Chair Cynthia Wright and Board Vice Chair Kendell Ferguson
<b>Objective:</b>	The Board will discuss the complaints filed against Board Members

**Background:** Formal complaints have been filed against Board Members Cynthia Wright and Jeff Kinsella. The Board will be presented with the complaints, and will then discuss next steps with the Board's legal counsel.

**Additional Materials:**

**Recommendation:**

**Suggested Motion:**



## EXECUTIVE SUMMARY

<b>Meeting Date:</b>	October 3, 2024
<b>Agenda Item:</b>	Cell Phones in our Secondary Schools
<b>Item Type:</b>	Report
<b>Administrator:</b>	Bret Champion, Natalie Hurd
<b>Objective:</b>	Secondary Principals will share how they currently manage cell phones in schools

**Background:** At the September 5 work session, the Board shared its desire to gather community input about student cell phone use at school. At the September 19 meeting a plan was presented to the Board.

As part of the plan, the Board requested to hear from secondary school principals. At this work session, secondary principals will share about their school's cell phone procedures, what's working, and the challenges they face regarding cell phones in schools.

**Additional Materials:**

[Secondary school procedures](#)

**Recommendation:** Information Only

**Suggested Motion:** N/A

# SECONDARY CELL PHONE PROCEDURES

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## HEDRICK MIDDLE SCHOOL

Cell phones and other electronic devices cannot be displayed, used, or viewed in any classroom or on campus during the school day. This includes passing periods. 7th & 8th-grade students are allowed to use their cell phones outside only while at lunch. Cell phones are off and away during the duration of the school day (including checking the time or sending a "quick message"). The phrase "Off and away is OK" will be used to depict any cell phone on a person. Responsible use of cell phones is allowed before and after school only.

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## McLOUGHLIN MIDDLE SCHOOL

Cell phones should be powered off and put away in student lockers for the day. Due to educational disruptions and security needs, students are not allowed to have any type of electronic device during class time, passing periods or lunch, with the exception of a district issued device. Individual student needs may be addressed with the use of electronics due to medical reasons. If students need to contact a parent or guardian during school hours, they may use the office phone. In addition, phones are located in every classroom throughout the building. MAC Cell Phone Procedure \*Airpods and Headphones are not permitted to be worn during passing periods or in class unless the teacher has given approval.

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## OAKDALE MIDDLE SCHOOL

Oakdale is committed to providing a positive educational learning environment free of distraction from electronic devices. The use of cell phones or other electronic devices inside of the building is strictly prohibited. All cell phones and other electronic devices or accessories must be turned off and out of sight while inside the building. Students will be required to leave their phone in their locker or turn it into their Advisory teacher. If student turn their phone into their Advisory teacher, they can pick it up at the end of the day.

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## RUCH OUTDOOR COMMUNITY

To enhance our students' focus and learning, we ask that all cell phones be turned off and stored in backpacks during the school day. This policy helps create a distraction-free environment for everyone. Please remind your children to adhere to this rule for a more productive school experience. Thank you for your support in fostering a better learning atmosphere!

## **INNOVATION ACADEMY**

Cell phones and headphones should be away, silent and untouched during class. Cell phones may be checked very little. No headphones during class. Students can listen to music or do research with teacher permission during independent work. Headphones okay at that time. Exceptions must be approved by the teacher.

## **NORTH MEDFORD HIGH SCHOOL**

North Medford is committed to working with parents, students, and educators regarding the appropriate use of cell phones/electronic devices in school. Having a cell phone/music device at school is a privilege. Students should follow the guidelines outlined in this policy. Having a phone or any other personal electronic devices at school is done at the risk of the student and their family as the school will not replace any lost, stolen or damaged devices. NMHS is not responsible for lost or stolen items. Students are expected to be responsible digital citizens and adhere to the following guidelines: All phones/music devices/ear-buds may be used on school grounds before school, during lunch, during passing periods, after school, and upon teacher/staff discretion/permission. All electronic devices (including ear-buds) must be silenced and stowed away, out of sight, in a bag/backpack/purse, etc. prior to the start of each class. Use of devices in class is allowed only with teacher permission. No electronic devices will be allowed for use during testing. In all classes, phones/music devices must be turned off and placed in backpacks, purses, etc. and remain stowed away throughout the entire testing period. Personal Music guidelines - Volume: If others can hear it, it's too loud! No digital images or videos will be taken on campus without consent.

## **SOUTH MEDFORD HIGH SCHOOL**

Demonstrating good cell phone etiquette is an expectation of all SMHS students. Cell phones may be used in the commons, bistro area, courtyard, hallways and library. In classrooms, cell phones need to be OFF and AWAY, INVISIBLE and INAUDIBLE unless authorized by the teacher. Teachers may ask students to place their cell phone in the front of the classroom upon entry. Failure to follow these guidelines may result in loss of privileges, confiscation the device, restricted internet access while on campus, parent contact and/or additional disciplinary action.

## DISTRICT POLICY SUMMARY

Personal electronic devices shall be turned off during instructional or class time or at any other time where such use of the device would cause a disruption of school activities, except as allowed by the instructor.

A "personal electronic device" is a device that is capable of electronically communicating, sending, receiving, storing, recording, reproducing and/or displaying information and data including pictures and videos.

Click [HERE](#) to read the complete policy.

# Medford School District 549C

Code: JFCEB  
Adopted: 5/09/16  
Revised/Readopted: 9/19/19  
Orig. Code: JFCEB

## Student Use of Personal Electronic Devices and Social Media\*\*

Student possession or use of personal electronic devices on district property in district facilities during the school day and while the student is in attendance at district-sponsored activities may be permitted subject to the limitations set forth in this policy and consistent with any additional school rules as may be established by the principal and approved by the superintendent.

A “personal electronic device” is a device that is capable of electronically communicating, sending, receiving, storing, recording, reproducing and/or displaying information and data including pictures and videos.

Personal electronic devices shall be turned off during instructional or class time or at any other time where such use of the device would cause a disruption of school activities, except as allowed by the instructor.

If the district implements a curriculum that uses technology, students may be allowed to use their own personal electronic devices to access the curriculum. Electronic curriculum will be provided free of charge to students.

The district will not be liable for personal electronic devices brought to district property and district-sponsored activities.

The district will not be liable for information/comments posted by students on social media websites.

Exceptions to the prohibitions set forth in this policy may be made for health, safety or emergency reasons with prior principal or designee approval or when use is provided for in a student’s individualized education program (IEP).

Students are subject to disciplinary action up to and including expulsion for using a personal electronic device in any manner that is academically dishonest, illegal or violates the student code of conduct or acceptable use policy. A referral to law enforcement officials may also be made. Personal electronic devices brought to district property or used in violation of this policy are subject to confiscation and will be released to the student’s parent/guardian as appropriate.

The superintendent shall ensure that the Board’s policy and any subsequent school rules developed by building administrators are reviewed and approved in advance to ensure consistency with this policy and that pertinent provisions of policy and school rules are communicated to staff, students and parents/guardians through building handbooks and other means.

END OF POLICY

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### Legal Reference(s):

[ORS 332.107](#)

[ORS 336.840](#)

Copyrights, 17 U.S.C. §§ 101-1332 (2012); 19 C.F.R. Part 133 (2017).



## EXECUTIVE SUMMARY

<b>Meeting Date:</b>	October 3, 2024
<b>Agenda Item:</b>	New Graduation Credit Requirements
<b>Item Type:</b>	Report
<b>Administrator:</b>	Jeanne Grazioli
<b>Objective:</b>	Staff will update the Board on the new graduation credit requirements

### **Background:**

The Oregon Department of Education has updated graduation requirements. These include .5 credit in Civics, .5 credit in Career Education, and .5 credit in Personal Finance. Timelines for implementation vary for each course.

The new **Civics requirement** is required for the class of 2026 according to SB 513. The goal of this requirement is to ensure that students graduate with the knowledge to be engaged and informed members of a democratic society. The newly adopted Social Sciences Standards (2021) include standards specific to civic education, and MSD Planned Course Statements will be created in the 2024-25 school year to reflect the new Civics course that replaces the current Contemporary Issues class that all seniors are required to take presently. The course will be newly named as Civics, but the infrastructure of sections and staffing are already in place and will not need to be altered solely on the basis of this new requirement. New materials may be needed to purchase this year in preparation for the new course, though we are hopeful to mitigate purchases as much as possible until our next Social Sciences adoption cycle. This will be determined during our Planned Course Statement work this school year.

We will begin implementing the **Career Education credit** this school year. To ensure that students are reaching all of the career standards at the most appropriate developmental age, they will earn the credit through experiences documented in Major Clarity, (our career learning platform in our secondary schools) over their four years in high school. During their senior year (or sooner, if students complete all required work), their school counselor will transcribe the career credit. These experiences will happen throughout the school year on modified schedule days. This repetition will help instill the importance of this learning and help students connect their school experiences to their next steps after high school. This credit is required for the class of 2027, and no new materials or staff are needed to implement the new requirement.

MSD currently offers **Personal Finance** at both comprehensive high schools; however, the curriculum being used is different at each school and has not been aligned to the new learning standards. To provide MSD time to align curriculum and standards and to develop a plan to reach every student with this course, we would like to request a one-year waiver from the Oregon Department of Education. This would mean the class of 2028 would be the first required to earn the credit before graduation.

At the Board work session, staff will share this information in more detail and be able to answer questions you may have about the requirements or the process.

**Additional Materials:** None

**Recommendation:** For information only. At the next Board meeting, we are requesting the Board approve a one year postponement of the Personal Finance credit requirement.

**Suggested Motion:** No action required at this meeting.



## EXECUTIVE SUMMARY

<b>Meeting Date:</b>	October 3, 2024
<b>Agenda Item:</b>	Enrollment / Class Size
<b>Item Type:</b>	Report
<b>Administrator:</b>	Jeanne Grazioli, Brad Earl
<b>Objective:</b>	To update the Board on enrollment and class sizes

**Background:** Annually, at the beginning of each school year, staff provides a report to the Board on student enrollment and class size. Data is typically compared to prior years as a reference.

**Enrollment:** As of the 16th day of school (9/18/2024), total enrollment was up 111 students compared to the same period in the prior year. Non-charter school enrollment is down slightly by -14 students over the same comparison period. It is important to note that our district will be funded based on prior year enrollment under the extended ADM option.

**Elementary School Class Size:** Medford School District continues to have lower class sizes over the last several years, and it continues to be a high priority. Class size averages are well below the thresholds established in the MEA contract. For individual classrooms that are approaching or above the threshold, we are providing additional classified support time.

**Middle School Caseload and Class Size Average:** At middle schools, we are below 180 total students per core teacher with the exception of PE, as allowed in the contract. We are pleased at where class sizes are at the middle school level. It was necessary to add 3 FTE to accommodate elective class sizes at Hedrick and McLoughlin at the start of the school year. Middle school core class sizes range from the lowest of 16 to the highest of 34.

**High School Caseload and Class Size Average:** Similarly at high schools, we are currently below 180 total students per core teacher with the exception of PE, as allowed in the contract. We experienced a higher level of enrollment than anticipated at North Medford High School, specifically. In the past few weeks, we problem-solved a handful of core teachers that were slightly above the established caseload for core classes, and PE/Health. As a result, we did add sections of Spanish and PE/Health. We are now pleased with where we are landing with class sizes overall. Innovation Academy Online class sizes vary, which is expected.

**Additional Materials:**

[District Enrollment](#)

[Elementary Class Size Chart](#)

[Middle School Average Class Size Chart](#)

[High School Average Class Size Chart](#)

**Recommendation:** Information only

**Suggested Motion:** N/A

**Medford School District  
Enrollment Comparison on 16th day of school**

**Enrollment 9/18/24**

School	Enrollment
ABEL	401
GCEL	488
HVEL	592
HOEL	277
JAEL	323
JVEL	332
JEEL	388
KNEL	394
LPEL	463
MOA	68
OGEL	393
ROEL	304
RUEL	204
WAEL	221
WIEL	310
HDMS	956
MCMS	828
ODMS	757
NMHS	1,732
SMHS	1,880
<b>District Programs</b>	<b>51</b>
Options/Transitions	45
B2b	6
<b>IA &amp; IAO</b>	<b>329</b>
IA	151
IO	178
<b>Madrone</b>	<b>248</b>
<b>Logos</b>	<b>1,284</b>
KUA	511
Valley	126
<b>Grand Total with Charter</b>	<b>13,860</b>
<b>Grand Total without Charter</b>	<b>11,691</b>

**Enrollment 9/20/23**

School	Enrollment
ABEL	412
GCEL	469
HVEL	587
HOEL	283
JAEL	307
JVEL	330
JEEL	392
KNEL	411
LPEL	462
MOA	94
OGEL	416
ROEL	329
RUEL	190
WAEL	261
WIEL	311
HDMS	968
MCMS	733
ODMS	826
NMHS	1,658
SMHS	1,953
<b>District Programs</b>	<b>40</b>
Options/Transitions	31
B2b	9
<b>IA/MO9-12</b>	<b>273</b>
IA	92
MO9-12	181
<b>Madrone</b>	<b>241</b>
<b>Logos</b>	<b>1,209</b>
KUA	474
Valley	120
<b>Grand Total with Charter</b>	<b>13,749</b>
<b>Grand Total without Charter</b>	<b>11,705</b>

**Differences**

School	24/25 compared to 23/24
ABEL	(11)
GCEL	19
HVEL	5
HOEL	(6)
JAEL	16
JVEL	2
JEEL	(4)
KNEL	(17)
LPEL	1
MOA	(26)
OGEL	(23)
ROEL	(25)
RUEL	14
WAEL	(40)
WIEL	(1)
HDMS	(12)
MCMS	95
ODMS	(69)
NMHS	74
SMHS	(73)
<b>District Programs</b>	<b>11</b>
Options/Transitions	14
B2b	(3)
<b>IA/MO9-12</b>	<b>56</b>
IA	59
IO (Previously MO 9-12)	(3)
<b>Madrone</b>	<b>7</b>
<b>Logos</b>	<b>75</b>
KUA	37
Valley	6
<b>Grand Total with Charter</b>	<b>111</b>
<b>Grand Total without Charter</b>	<b>(14)</b>

**K-5 Elementary Class Sizes  
2024-2025**

School	K					1st					2nd					2/3	3rd					3/4	4th					4/5	5th					Total including sped/other		
	K	K	K	K	K	1st	1st	1st	1st	1st	2nd	2nd	2nd	2nd	2nd		3rd	3rd	3rd	3rd	3rd		4th	4th	4th	4th	4th		5th	5th	5th	5th	5th	Total	Sped/Other	sped/other
Abe Lincoln	51	17	17	17		67	23	22	22		62	21	21	20		68	23	23	22			57	24	23			25	66	26	25			371	31	402	
Griffin Creek	80	20	20	20	20	65	22	22	21		70	24	23	23		73	25	24	24			79	27	26	26			93	31	31	31		460	27	487	
Hoover	77	20	19	19	19	93	24	23	23	23	90	27	26	26	26	123	27	27	27	27		109	28	27	27	27		100	25	25	25	25	592		592	
Howard	60	20	20	20		39	20	19			41	21	20			51	26	25				48	24	24				38	19	19			277		277	
Jackson	77	17	17	26	17	61	18	18	25		38	15	23			51	21	20			18	46	23				28	51	19	19			324		324	
Jacksonville	42	21	21			52	18	17	17		51	26	25			59	30	29				51	26	25				58	29	29			313	21	334	
Jefferson	46	16	15	15		62	21	21	20		59	25	24		26	68	26	26				59	30	29				71	24	24	23		365	23	388	
Kennedy	49	17	16	16		83	21	21	21	20	50	25	25			69	23	23	23			49	25	24				65	22	22	21		365	29	394	
Lone Pine	54	18	18	18		68	23	23	22		72	24	24	24		84	28	28	28			77	26	26	25			87	29	29	29		442	21	463	
Oak Grove	56	19	19	18		56	19	19	18		67	23	22	22		65	22	22	21			78	26	26	26			71	24	24	23		393		393	
Roosevelt	43	22	21			38	19	19			44	22	22			55	28	27				51	26	25				47	24	23			278	27	305	
Ruch	24	24				22	22				19	19				25	25					17	17					27	27				134	70	204	
Washington	35	18	17			37	19	18			33	24			24	40	25					34	24			26		42	26				221		221	
Wilson	41	21	20			43	22	21			47	24	23			62	21	21	20			47	24	23				52	26	26			292	18	310	
<b>Grade Level Totals:</b>	<b>735</b>			<b>K Avg: 18.8</b>		<b>786</b>			<b>1st Avg: 20.7</b>		<b>743</b>			<b>2nd Avg: 23.0</b>		<b>893</b>			<b>3rd Avg: 24.6</b>			<b>802</b>				<b>4th Avg: 25.3</b>		<b>868</b>			<b>5th Avg: 25.0</b>		<b>4,827</b>		<b>5,094</b>	

Grade	Target	Threshold
K-1	21	25
2-3	26	29
4-5	28	31

At or below Target
Approaching or at Threshold
Above Threshold
Two Way Immersion



**Middle School Class Size and Section  
Summary Report**

October 3, 2024

Class Name	Hedrick		McLoughlin		Oakdale	
	Sections	Class Ave	Sections	Class Ave	Sections	Class Ave
English 6	13	24.8	10	25.3	10	22.7
English 7 (includes Honors)	12	25.1	10	26	10	23.2
English 8 (includes Honors)	12	23.7	10	24.8	10	26.8
Total Sections	37		30		30	
Math 6	13	25.2	10	25.2	10	22.5
Math 7	12	24.1	8	27.6	10	23.5
Pre-Algebra 7	0	0	2	19	0	0
Pre-Algebra 8	12	22.3	7	26.1	9	27.3
Algebra 1	1	27	2	32	1	16
Geometry Honors	0	0	1	26	0	0
Total Sections	38		30		30	
Science 6	14	24.1	10	26.2	10	22.4
Science 7	12	25.5	10	27.2	10	23.2
Science 8	12	24.3	10	26.8	10	26.8
Total Sections	38		30		30	
Social Science 6	14	24.1	10	26.3	10	21.5
Social Science 7	12	25.6	10	28.4	10	22.2
Social Science 8	12	24.3	10	26.8	10	26.4
Total Sections	38		30		30	
Health 6	2	33	3	26.7	0	0
Health 7	2	34	2	27.5	3	24
Health 8	3	27	2	30	3	30
Total Sections	7		7		6	

**Enrollment by Grade Level**

	6th	7th	8th	Total
Hedrick	345	312	296	953
McLoughlin	270	280	274	824
Oakdale	235	246	272	753
	850	838	842	2530

High School Class Name	North		South		Innovation Academy		Innovation Online	
	Sections	Class Ave	Sections	Class Ave	Sections	Class Ave	Sections	Class Ave
English 1 (includes Pre-AP)	17	28.7	16	27.9	4	21.8	2	11
English 2 (includes Pre-AP)	16	26.6	19	24.7	0	0	2	19.5
English 3 (includes Pre-AP)	10	29.8	11	26.3	2	31.5	2	25
English 4 (includes Pre-AP)	11	27.1	11	23.5	0	0	2	29
English AP and College Credit	6	26	12	28.8	0	0	0	0
Total Sections	60		69		6		8	
Algebra I (includes Honors)	12	30.3	13	28.5	0	0	2	12
Geometry (includes Honors)	7	28.6	15	29.9	0	0	2	25.5
Algebra II (includes Honors)	10	30.1	15	25	2	32.5	1	9
Pre-Calc (includes Honors)	5	24.4	5	24.2	0	0	0	0
AP Calc (I & II) & Stats	4	22	5	20.2	0	0	0	0
Algebra A/B/C	6	27.2	0	0	0	0	0	0
Total Sections	44		53		2		5	
Biology (includes Honors/AP)	22	27.4	28	26.1	4	21.8	2	11.5
Chemistry (includes Honors/AP)	17	28.3	19	23.8	0	0	2	16
Physics (includes AP)	11	25.4	2	29	1	12	2	21.5
Astronomy	4	23	1	17	0	0	0	0
Environmental Science (includes AP)	1	28	2	18.5	1	15	2	13
Human Anatomy & Physiology	1	35	4	30.3	0	0	0	0
Total Sections	56		56		6		8	
World Studies (includes Honors)	16	26.6	14	25	0	0	2	14.5
American Studies (includes Honors)	13	29.4	13	27.7	0	0	2	22
Economics (could be either semester)	6	21.7	6	27	0	0	0	0
Contemporary Issues	5	22.4	5	27	0	0	2	39.5
Total Sections	40		38		0		6	
Health	13	29.2	12	23.1	2	31.5		
Total Sections	13		12		2		0	

### Enrollment by Grade Level

	9th	10th	11th	12th	Total
North	486	437	400	401	1724
South	447	473	490	460	1870
Innovation Academy	37	50	38	26	151
Innovation Online	20	41	49	70	180
	990	1001	977	957	3925



## EXECUTIVE SUMMARY

<b>Meeting Date:</b>	October 3, 2024
<b>Agenda Item:</b>	School Board Policies - first reading
<b>Item Type:</b>	Information and Discussion
<b>Administrator:</b>	Bret Champion, Jodi Fahy
<b>Objective:</b>	Review the policies presented for a first reading

**Background:** OSBA provides quarterly policy updates that include current revisions to state and federal laws and guidelines. Staff has reviewed the updated language and applied applicable revisions which are reflected in the policy packet.

Revisions in **red** font indicate OSBA updated language. Revisions in **blue** font indicate staff updated language.

Policy	Title	Summary
BG	Board-Staff Communication	<i>The Board adopted their Board Operating Agreement (BOA) on September 19 that includes a section on school visits. The language in this policy has been revised to reflect the language in the BOA.</i>
DJC <i>Delete previous version and replace with new version</i>	Bidding Requirements	<i>OSBA recommends deleting the current versions of DJC – Bidding Requirements, DJC-AR – Special Procurements and Exemptions from Competitive Bidding, DJCA – Personal Service Contracts and DJCA-AR – Personal Service Contracts, and replacing them with the new proposed versions of DJC and DJC-AR. The proposed DJC outlines the procurement requirements for Small Procurement, Intermediate Procurement, Regular Procurement, Emergency Procurement, Sole-Source Procurement and Personal Services Contracts.</i>  <i>Additionally, the proposed policy DJC – Bidding Requirements, reflects the new</i>
DJC-AR <i>Delete previous version and replace with new version</i>	Special Procurements and Exemptions from Competitive Bidding (previous title)  Exemptions from Competitive Bidding and Special Procurements (new title)	

<p>DJCA <i>Delete this policy</i></p>	<p>Personal Services Contracts</p>	<p><i>amounts for the procurement levels passed in House Bill 1047 (2023) and went into effect January 1, 2024. The policy also defines “public improvements” for</i></p>
<p>DJCA-AR <i>Delete this administrative regulation</i></p>	<p>Personal Services Contracts</p>	<p><i>purposes of the procurement levels, defines “community benefit contract” and the “Construction Manager/General Contractor procurement.”</i></p>
		<p><i>The proposed administrative regulation, DJC-AR – Exemptions from Competitive Bidding and Special Procurements, has been updated and continues to provide guidance for procurements which are exempt from competitive bidding or are special procurements.</i></p>
		<p><i>Staff has reviewed the OSBA recommendations and approves the suggested revisions.</i></p>

**Additional Materials:** [Policy Packet](#)

The policy packet is organized with the revised version first (colored font), followed by a draft final version with the revisions incorporated.

**Recommendation:** Review revised language and move the policies forward for adoption/readoption at the October 17 Board meeting.

**Suggested Motion:** No action required at this meeting.

# Medford School District 549C

Code: BG  
Adopted: 2/16/10  
Revised/Readopted: 3/11/19; xx/xx/xx  
Orig. Code(s): BG

## Board-Staff Communications

The Board desires to maintain open channels of communication between itself and the district staff. The basic line of communication will, however, be through the superintendent.

### Staff Communications to the Board

All formal communications or reports to the Board or any Board committee from staff members should be submitted through the superintendent. This procedure will not be construed as denying the right of any employee to address the Board about issues which are neither part of an active administrative procedure, nor disruptive to the operation of the district. In addition, this procedure does not restrict protected labor relations communications of bargaining unit members. Staff members are invited to Board meetings which provide an opportunity to observe the Board's deliberations on matters of district operation.

### Board Communications to Staff

All official communications, policies, and directives of staff interest and concern will be communicated to staff members through the superintendent. The superintendent will provide appropriate communication to keep staff fully informed of the Board's policies, priorities and actions.

### Visits to Schools

Official school visits by Board members shall be regarded as informal expressions of interest in school affairs and not as "inspections" or visits for supervisory or administrative purposes. Board members will coordinate with the Board secretary [24 hours in advance and provide the estimated amount of time expected for the visit, as well as the purpose. The Board secretary will ~~to~~ notify the principal as soon as possible](#), prior to school visits.

END OF POLICY

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### Legal Reference(s):

[ORS 332.107](#)

[OAR 581-022-2405](#)

Anderson v. Central Point Sch. Dist., 746 F.2d 505 (9th Cir. 1984).

Connick v. Myers, 461 U.S. 138 (1983).

Lebanon Education Association/OEA v. Lebanon Community School District, 22 PECBR 323 (2008).

# Medford School District 549C

Code: BG  
Adopted: 2/16/10  
Revised/Readopted: 3/11/19; xx/xx/xx  
Orig. Code(s): BG

## Board-Staff Communications

The Board desires to maintain open channels of communication between itself and the district staff. The basic line of communication will, however, be through the superintendent.

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### Board Communications to Staff

All official communications, policies, and directives of staff interest and concern will be communicated to staff members through the superintendent. The superintendent will provide appropriate communication to keep staff fully informed of the Board's policies, priorities and actions.

### Visits to Schools

Official school visits by Board members shall be regarded as informal expressions of interest in school affairs and not as "inspections" or visits for supervisory or administrative purposes. Board members will coordinate with the Board secretary 24 hours in advance and provide the estimated amount of time expected for the visit, as well as the purpose. The Board secretary will notify the principal as soon as possible, prior to school visits.

END OF POLICY

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### Legal Reference(s):

[ORS 332.107](#)

[OAR 581-022-2405](#)

Anderson v. Central Point Sch. Dist., 746 F.2d 505 (9th Cir. 1984).

Connick v. Myers, 461 U.S. 138 (1983).

Lebanon Education Association/OEA v. Lebanon Community School District, 22 PECBR 323 (2008).

# Medford School District 549C

Code: DJC  
Adopted: 9/15/14  
Revised/Readopted: 3/11/19; 2/17/22  
Orig. Code(s): DJC

## **Bidding Requirements**

The Board is the Local Contract Review Board (LCRB) for the district. All public contracts shall be invited in accordance with applicable competitive procurement provisions of the Oregon Revised Statutes and the adopted public contracting rules.

The Board, acting as its own LCRB, adopts<sup>1</sup> the Oregon Attorney General's Model Public Contract Rules, Oregon Administrative Rule (OAR) Chapter 137, Divisions 046 through 049 in effect at the time this policy is adopted.

Regardless of whether or not the district adopts the Model Public Contract Rules, if the district uses the construction manager/general contractor (CM/CG) alternative contracting methodology, the district shall procure the services in accordance with model rules the Attorney General adopts under Oregon Revised Statute (ORS) 279A.065(3).

Additionally, the Board may include as part of its rules portions of the Oregon Department of Administrative Services rules governing Public Contract Exemptions, OAR Chapter 125, Divisions 246-249 in effect at the time this policy is adopted.

The Board may make the written findings required by law for exemptions from competitive bidding. Such findings shall be maintained by the district and made available on request.

The district shall review its rules each time the Attorney General adopts a modification of the model rules as required by ORS 279A.065 (6)(b), to determine whether any modifications need to be made to district rules to ensure compliance with statutory changes. New rules, as necessary, shall be adopted by the Board. In the event it is unnecessary to adopt new rules, Board minutes will reflect that the review process was completed as required.

The Board, acting as the LCRB, may enact a resolution that authorizes the district to designate a public improvement as a community benefit contract per the requirements included in ORS 279C.300 to 279C.470.

END OF POLICY

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<sup>1</sup> Public Contracts shall be governed by ORS Chapter 279, 279A, 279B and 279C. Additionally, the Board may, as provided by ORS 279A.065, adopt the Oregon Attorney General's Model Public Contract Rules, OAR Chapter 137 governing purchasing/bid procedures. The Board may also adopt the Oregon Department of Administrative Services rules governing Public Contract Exemptions, OAR Chapter 125. The Board may adopt portions of those rules or adopt its own rules. A Board that has not established its own rules of procedure for public contracts is subject to the model rules (OAR Chapter 137) adopted by the Attorney General.

**Legal Reference(s):**

ORS Chapters [279](#), [279A](#), [279B](#) and [OAR Chapter 125](#), Divisions 246-249  
[279C](#)

OR. DEP'T OF JUSTICE, OR. ATT'Y GENERAL'S MODEL PUBLIC CONTRACT RULES MANUAL.

**Cross Reference(s):**

DJ - District Purchasing  
DJCA - Personal Services Contracts  
DJG - Vendor Relations

DELETED

# Medford School District 549C

Code: DJC  
Adopted: xx/xx/xx

## Bidding Requirements

The Board is the Local Contract Review Board (LCRB) for the district. The LCRB has not adopted its own rules of procurement. Consequently, the *Oregon Attorney General's Model Public Contracting Rules*<sup>1</sup> shall apply to the district.<sup>2</sup>

Additionally, the district may include as part of its procedures portions of the Oregon Department of Administrative Services administrative rules governing Public Contract Exemptions, OAR Chapter 125, Divisions 246 - 249.

The LCRB may make the written findings required by law for exemptions from competitive bidding. Such findings shall be maintained by the district and made available on request.

The district may not artificially divide or fragment a procurement to reduce the procurement requirements.

The superintendent or designee may develop administrative regulations or procedures to assist with the implementation of this policy and applicable procurement rules.

### Goods and Services

The district will purchase goods and services through the following procedures, unless an exception applies:

1. **Small Procurement.** For purchases of goods and services with a contract price not exceeding \$25,000, the district can use any manner deemed practical or convenient, including direct selection or award. Amendments to a contract awarded through small procurement must be in accordance with OAR 137-047-0800.
2. **Intermediate Procurement.** For purchases of goods and services with a contract price exceeding \$25,000, but not exceeding \$250,000, the district shall seek at least three informally solicited competitive price quotes or competitive proposals from prospective contractors. The district will keep record of the request and quotes. If three quotes are not reasonably available, fewer will suffice, but the district will make a written record of the effort made. The district may negotiate with a prospective contractor to clarify the quote or offer, or to effect modifications. Amendments to a contract awarded through intermediate procurement must be in accordance with OAR 137-047-0800.
3. **Regular Procurement.** For purchases exceeding \$250,000, the district will use competitive sealed bids (OAR 137-047-0255) or competitive sealed proposals (OAR 137-047-0260). Amendments to contracts awarded through regular procurement must be in accordance with OAR 137-047-0800.

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<sup>1</sup> Oregon Administrative Rules (OAR) 137-045 - 049

<sup>2</sup> See ORS 279A.065(5).

4. **Emergency Procurements.** In situations of emergency, the LCRB or designee may authorize an emergency procurement. In an emergency procurement, the district is not required to follow general procurement requirements. The district must ensure competition for the contract that is reasonable and appropriate under the circumstances. The district must document the nature of the emergency and the method used for the selection of the contractor.
5. **Sole-source Procurements.** If the LCRB or designee determines that the goods or services are available from only one source, the district may award a contract without competition. To the extent reasonably practicable, the district shall negotiate with the sole source to obtain contract terms that are advantageous to the district. The determination of sole source must be based on written findings and may include:
  - a. That the efficient utilization of existing goods requires acquiring compatible goods or services;
  - b. That the goods or services required to exchange software or data with other public or private agencies are available from only one source;
  - c. That the goods or services are for use in a pilot or experimental project; or
  - d. Other findings that support the conclusion that the goods or services are available from only one source.<sup>3</sup>
6. **Special Procurements.** “Special procurement” means a contract or class of contracts that use a contracting procedure other than competitive sealed proposals, competitive sealed bidding, small procurement or intermediate procurement. Special procurements require LCRB approval and will be conducted in accordance with ORS 279B.085, OAR 137-047-0285 and this policy and administrative regulation DJC-AR - Exemptions from Competitive Bidding and Special Procurement.
7. **Personal Services Contracts.** “Personal services contract,” as used in this policy, means a contract whose primary purpose is to acquire specialized skills, knowledge and resources in the application of technical or scientific expertise, or the exercise of professional, artistic or management discretion or judgment.<sup>4</sup> Unless otherwise designated by the LCRB, personal services contracts will be procured in accordance with applicable procurement laws. The LCRB may designate certain service contracts or classes of service contracts as personal services contracts and exempt them from competitive bidding. All personal services contracts shall be based on demonstrated qualifications and competence to perform the required services, encourage competition, discourage favoritism and obtain services at a fair and reasonable price. Personal service contractors may be required to qualify as independent contractors in accordance with applicable laws.<sup>5</sup>

Procurements for services estimated to be in excess of \$250,000 shall go through the cost analysis and feasibility process in accordance with ORS 279B.030.

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<sup>3</sup> If the contract does not exceed \$250,000, using intermediate procurement is likely less burdensome than sole source.

<sup>4</sup> This includes, but is not limited to, contracts for the services of an accountant, physician or dentist, educator, consultant (including a provider under an Architectural and Engineering Service Contract), broadcaster, or artist (including a photographer, filmmaker, painter, weaver or sculptor (OAR 137-045-0010(19))). Also includes architectural, engineering, photogrammetric mapping, transportation planning or land surveying services procured under ORS 279C.105 (ORS 279C.100) and related services procured under ORS 279C.120 (ORS 279C.100(5)).

<sup>5</sup> See ORS 670.600 and OAR 459-005-0020.

## Public Improvements

“Public improvement” means a project for construction, reconstruction or major renovation on real property by or for the district.<sup>6</sup> The district will contract for public improvements using the following procedures, unless an exception applies.

1. Public improvements contracts with a value of less than \$25,000 are exempt from competitive bidding.
2. Intermediate Procurements. For public improvement contracts not exceeding \$100,000, the district may utilize three quotes<sup>7</sup>:
  - a. The request for the quotes shall be in writing (unless not reasonably practicable)<sup>8</sup>;
  - b. The request for quotes shall include the selection criteria and if the criteria are not of equal value, their relative value or ranking.

The district shall award the contract to the prospective contractor whose quote will best serve the interest of the district, based on the selection criteria. If the award is not made to the offeror and quote with the lowest price, the district will make a written record of the basis for the award. Amendments to a contract awarded via intermediate procurement may be increased in accordance with OAR 137-049-0160(6)-(7).

3. Regular Procurements. For purchases exceeding \$100,000, the district will use invitation to bid or request for proposals except as otherwise allowed by law. See OAR 137-049-0130 and OAR 137-049-0640. Amendments to contracts awarded through regular procurement must be in accordance with OAR 137-049-0910.
4. Emergency Procurements. Emergency contracts for construction services are not considered public improvement contracts and will be procured in accordance with OAR 137-049-0140 and OAR 137-049-0150.
5. Community Benefit Contracts. “Community benefit contract” means a public improvement contract that includes, but is not limited to, terms and conditions that require the contractor to:
  - a. Qualify as a training agent, as defined in ORS 660.010, or provide apprenticeship training that meets applicable federal and state standards for apprenticeship training;
  - b. Employ apprentices to perform a specified percentage of work hours that workers in apprenticeable occupations perform on the community benefit project;
  - c. Provide employer -paid family health insurance; and
  - d. Meet any other requirements that the LCRB sets forth.

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<sup>6</sup> Public improvement does not include:

1. Projects for which no funds of the district are directly or indirectly used, except for participation that is incidental or related primarily to project design or inspection; or
2. Emergency work, minor alteration, ordinary repair or maintenance necessary to preserve a public improvement.

<sup>7</sup> If three quotes are not reasonably available, the district shall make a written record of the effort made to obtain these quotes.

<sup>8</sup> For Public Works Contracts, oral quotations may only be utilized in the event that written copies of prevailing wage rates are not required by the Bureau of Labor and Industries.

Community benefits contracts may be procured in accordance with ORS 279C.308.

6. Construction Manager/General Contractor (CM/GC) Procurement. The district shall procure CM/GC services in accordance with model rules the Attorney General adopts under Oregon Revised Statute (ORS) 279A.065(3) and OAR 137-049-0690, which requires “the assistance of legal counsel with substantial experience and necessary expertise in using the CM/GC Method, as well as knowledgeable staff, consultants or both staff and consultants who have demonstrated capability of managing the CM/GC process in the necessary disciplines of engineering, construction scheduling and cost control, accounting, legal, Public Contracting and project management.”

END OF POLICY

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**Legal Reference(s):**

[ORS Chapter 279](#)  
[ORS Chapter 279A](#)  
[ORS Chapter 279B](#)  
[ORS Chapter 279C](#)

[ORS 670.600](#)  
[OAR Chapter 125](#), Divisions 246 -  
249

[OAR Chapter 137](#), Divisions 045 -  
049  
[OAR 459-005-0020](#)

[OREGON PROCUREMENT MANUAL](#), Oregon Department of Administrative Services.

# Medford School District 549C

Code: DJC  
Adopted: xx/xx/xx

## Bidding Requirements

The Board is the Local Contract Review Board (LCRB) for the district. The LCRB has not adopted its own rules of procurement. Consequently, the *Oregon Attorney General's Model Public Contracting Rules*<sup>1</sup> shall apply to the district.<sup>2</sup>

Additionally, the district may include as part of its procedures portions of the Oregon Department of Administrative Services administrative rules governing Public Contract Exemptions, OAR Chapter 125, Divisions 246 - 249.

The LCRB may make the written findings required by law for exemptions from competitive bidding. Such findings shall be maintained by the district and made available on request.

The district may not artificially divide or fragment a procurement to reduce the procurement requirements.

The superintendent or designee may develop administrative regulations or procedures to assist with the implementation of this policy and applicable procurement rules.

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<sup>1</sup> Oregon Administrative Rules (OAR) 137-045 - 049

<sup>2</sup> See ORS 279A.065(5).

3. Regular Procurement. For purchases exceeding \$250,000, the district will use competitive sealed bids (OAR 137-047-0255) or competitive sealed proposals (OAR 137-047-0260). Amendments to contracts awarded through regular procurement must be in accordance with OAR 137-047-0800.
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5. Sole-source Procurements. If the LCRB or designee determines that the goods or services are available from only one source, the district may award a contract without competition. To the extent reasonably practicable, the district shall negotiate with the sole source to obtain contract terms that are advantageous to the district. The determination of sole source must be based on written findings and may include:
  - a. That the efficient utilization of existing goods requires acquiring compatible goods or services;
  - b. That the goods or services required to exchange software or data with other public or private agencies are available from only one source;
  - c. That the goods or services are for use in a pilot or experimental project; or
  - d. Other findings that support the conclusion that the goods or services are available from only one source.<sup>3</sup>
6. Special Procurements. “Special procurement” means a contract or class of contracts that use a contracting procedure other than competitive sealed proposals, competitive sealed bidding, small procurement or intermediate procurement. Special procurements require LCRB approval and will be conducted in accordance with ORS 279B.085, OAR 137-047-0285 and this policy and administrative regulation DJC-AR - Exemptions from Competitive Bidding and Special Procurement.
7. Personal Services Contracts. “Personal services contract,” as used in this policy, means a contract whose primary purpose is to acquire specialized skills, knowledge and resources in the application of technical or scientific expertise, or the exercise of professional, artistic or management discretion or judgment.<sup>4</sup> Unless otherwise designated by the LCRB, personal services contracts will be procured in accordance with applicable procurement laws. The LCRB may designate certain service contracts or classes of service contracts as personal services contracts and exempt them from competitive bidding. All personal services contracts shall be based on demonstrated qualifications and competence to perform the required services, encourage competition, discourage favoritism and

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<sup>3</sup> If the contract does not exceed \$250,000, using intermediate procurement is likely less burdensome than sole source.

<sup>4</sup> This includes, but is not limited to, contracts for the services of an accountant, physician or dentist, educator, consultant (including a provider under an Architectural and Engineering Service Contract), broadcaster, or artist (including a photographer, filmmaker, painter, weaver or sculptor (OAR 137-045-0010(19))). Also includes architectural, engineering, photogrammetric mapping, transportation planning or land surveying services procured under ORS 279C.105 (ORS 279C.100) and related services procured under ORS 279C.120 (ORS 279C.100(5)).

obtain services at a fair and reasonable price. Personal service contractors may be required to qualify as independent contractors in accordance with applicable laws.<sup>5</sup>

Procurements for services estimated to be in excess of \$250,000 shall go through the cost analysis and feasibility process in accordance with ORS 279B.030.

## **Public Improvements**

“Public improvement” means a project for construction, reconstruction or major renovation on real property by or for the district.<sup>6</sup> The district will contract for public improvements using the following procedures, unless an exception applies.

1. Public improvements contracts with a value of less than \$25,000 are exempt from competitive bidding.
2. Intermediate Procurements. For public improvement contracts not exceeding \$100,000, the district may utilize three quotes<sup>7</sup>:
  - a. The request for the quotes shall be in writing (unless not reasonably practicable)<sup>8</sup>;
  - b. The request for quotes shall include the selection criteria and if the criteria are not of equal value, their relative value or ranking.

The district shall award the contract to the prospective contractor whose quote will best serve the interest of the district, based on the selection criteria. If the award is not made to the offeror and quote with the lowest price, the district will make a written record of the basis for the award. Amendments to a contract awarded via intermediate procurement may be increased in accordance with OAR 137-049-0160(6)-(7).

3. Regular Procurements. For purchases exceeding \$100,000, the district will use invitation to bid or request for proposals except as otherwise allowed by law. See OAR 137-049-0130 and OAR 137-049-0640. Amendments to contracts awarded through regular procurement must be in accordance with OAR 137-049-0910.
4. Emergency Procurements. Emergency contracts for construction services are not considered public improvement contracts and will be procured in accordance with OAR 137-049-0140 and OAR 137-049-0150.

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<sup>5</sup> See ORS 670.600 and OAR 459-005-0020.

<sup>6</sup> Public improvement does not include:

1. Projects for which no funds of the district are directly or indirectly used, except for participation that is incidental or related primarily to project design or inspection; or
2. Emergency work, minor alteration, ordinary repair or maintenance necessary to preserve a public improvement.

<sup>7</sup> If three quotes are not reasonably available, the district shall make a written record of the effort made to obtain these quotes.

<sup>8</sup> For Public Works Contracts, oral quotations may only be utilized in the event that written copies of prevailing wage rates are not required by the Bureau of Labor and Industries.

5. Community Benefit Contracts. “Community benefit contract” means a public improvement contract that includes, but is not limited to, terms and conditions that require the contractor to:
  - a. Qualify as a training agent, as defined in ORS 660.010, or provide apprenticeship training that meets applicable federal and state standards for apprenticeship training;
  - b. Employ apprentices to perform a specified percentage of work hours that workers in apprenticeable occupations perform on the community benefit project;
  - c. Provide employer -paid family health insurance; and
  - d. Meet any other requirements that the LCRB sets forth.

Community benefits contracts may be procured in accordance with ORS 279C.308.

6. Construction Manager/General Contractor (CM/GC) Procurement. The district shall procure CM/GC services in accordance with model rules the Attorney General adopts under Oregon Revised Statute (ORS) 279A.065(3) and OAR 137-049-0690, which requires “the assistance of legal counsel with substantial experience and necessary expertise in using the CM/GC Method, as well as knowledgeable staff, consultants or both staff and consultants who have demonstrated capability of managing the CM/GC process in the necessary disciplines of engineering, construction scheduling and cost control, accounting, legal, Public Contracting and project management.”

END OF POLICY

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**Legal Reference(s):**

ORS Chapter 279  
ORS Chapter 279A  
ORS Chapter 279B  
ORS Chapter 279C

ORS 670.600  
OAR Chapter 125, Divisions 246 -  
249

OAR Chapter 137, Divisions 045 -  
049  
OAR 459-005-0020

OREGON PROCUREMENT MANUAL, Oregon Department of Administrative Services.

# Medford School District 549C

Code: DJC-AR  
Adopted: 6/13/16  
Revised/Readopted: 3/11/19  
Orig. Code(s): DJC-AR

## **Special Procurements and Exemptions from Competitive Bidding**

### ***SPECIAL PROCUREMENTS***

The district shall submit a written request to the Board, acting as the Local Contract Review Board (LCRB), that describes the contracting procedure, the goods and services or class of goods and services that are the subject of the special procurement and circumstances that justify the use of a special procurement under the standards as follows: the special procurement is unlikely to encourage favoritism in the awarding of a public contract or to substantially diminish competition for public contracts and, (A) is reasonably expected to result in substantial cost savings to the district or to the public, or (B) otherwise substantially promote the public interest in a matter that could not practicably be realized by complying with requirements that are applicable under Oregon Revised Statute (ORS) 279B.055, 279B.060, 279B.065, 279B.070 or under any related rules. Public notice of the approval of a special procurement must be given in the same manner as provided in ORS 279B.055(4). If the district intends to award a contract through special procurements that calls for competition among prospective contractors, the district shall award the contract to the contractor it determines to be most advantageous to the district. When the LCRB approves a class special procurement the district may award contracts to acquire goods and services within the class of goods and services in accordance with the terms of the approval without making a subsequent request for a special procurement.

#### **1. Brand Names or Products, “Or Equal,” Single Seller and Sole Source**

- a. The district may purchase brand names or products from a single seller or sole source without competitive bidding subject to the limitations of this rule.
- b. Solicitation specifications for public contracts of the district shall not expressly or implicitly require any product of any particular manufacturer or seller except as expressly authorized in subsections c. and d. of this rule.
- c. The district may specify a particular brand name or equal specification when the use of a brand name or equal specification is advantageous to the district, because the brand name describes the standard of quality, performance, functionality and other characteristics of the product needed by the district.
  - (1) The district is entitled to determine what constitutes a product that is equal or superior to the product specified, and any such determination is final;
  - (2) The district is not prohibited from specifying one or more comparable products as examples of the quality, performance, functionality or other characteristics of the product needed by the district;
  - (3) A brand name specification may be prepared and used only if the district determines for a solicitation or class of solicitations that only the identified brand name specification

will meet the needs of the district based on one or more of the following written determinations:

- (a) The use of a brand name specification is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts; or
  - (b) Specification of the brand name, mark or product would result in cost savings to the district; or
  - (c) There is only one manufacturer or seller of the product of the quality, performance or functionality required; or
  - (d) The efficient utilization of existing goods requires the acquisition of compatible goods and services.
- d. The district may award a contract for goods or services without competition when the LCRB determines in writing that the goods or services, or the class of goods or services, are available from only one source. The determination of the source must be based upon written findings that shall include:
- (1) A brief description of the contract or contracts to be covered, including contemplated future purchases;
  - (2) Description of the product or service to be purchased; and
  - (3) The reasons the district is seeking this procurement method, which shall include any of the following:
    - (a) That the efficient utilization of existing goods requires the acquisition of compatible goods or services; or
    - (b) That the goods or services required for the exchange of software or data with other public or private agencies are available from only one source; or
    - (c) That the goods or services are for use in a pilot or an experimental project; or
    - (d) To the extent reasonably practical, the contracting agency shall negotiate with the sole source to obtain contract terms advantageous to the contracting agency.
- e. The district may specify a product or service available from only one manufacturer but available through multiple sellers after complying with subsection c. above documenting the procurement file with the following information:
- (1) If the total purchase is over \$10,000 but does not exceed \$150,000, and a comparable product or service is not available under an existing Mandatory Use Contract, the district must obtain informal competitive quotes, bids or proposals and document this process in the procurement file;
  - (2) If the purchase does not exceed \$150,000, and the supplies or services are not available under an existing price agreement for information technology with competing products or Mandatory Use Contract, the district must first request and obtain prior written authorization from the LCRB to proceed with the acquisition.
- f. If the district intends to make several purchases of brand name-specific supplies and services from a particular manufacturer or seller for a period not to exceed five years, the district must so state this in the procurement file and in the solicitation document, if any, or a public notice

of a solicitation. If the total purchase amount is estimated to exceed \$150,000, this shall be stated in the advertisement for bids or proposals.

### **Findings of Fact/Conclusion of Compliance with Law (OAR 125-247-0275)**

The district shall submit a written request to the local contract review board that describes the contracting procedure, goods and services subject of the special procurement and the circumstances that justify the use of the special procurement.

- a. It is unlikely that this special procurement will encourage favoritism in the awarding of public contracts or substantially diminish competition for such contracts and is reasonably expected to result in substantial cost savings to the district which could not be realized under ORS 279B.055, 279B.060, 279B.065 or 279B.070 as required by ORS 279B.085(4).
- b. Public notice of the approval must be given in the same manner as provided in ORS 279B.055(4).
- c. This rule requires the districts to make a good faith effort to determine that no other sources are available for the specified products.
- d. The district maintains open lists from which vendors are contacted for quotations and utilizes electronic means of determining new vendors on an ongoing basis.
- e. The awarding of a contract as described in this special procurement should result in substantial cost savings by virtue of the ability to reduce solicitation costs when it is known that comparable products are not available, or when specifying another product solely to meet a competition requirement might lead to lower initial cost but longer lifetime cost.
- f. When the local review board approves a class special procurement the district may award contracts to acquire goods and services within the class of goods and services in accordance with the terms of the approval without making a subsequent request for procurement.

### **2. Advertising Contracts, Purchase of**

- a. The district may purchase advertising in any media, regardless of a dollar amount, without competitive bidding.
- b. The Board acting as the LCRB of the district must use competitive methods whenever possible to achieve best value and must document in the procurement file the reasons why a competitive process was deemed impractical and the resulting contract must be in writing.
- c. If the anticipated purchase exceeds \$10,000 and a competitive method is used, the district must post notice on the Oregon Procurement Information Network (ORPIN).

### **Findings of Fact**

The district traditionally purchases advertising in newspapers. The following findings relate primarily to newspapers and written publications; however, the district may also purchase advertising for student activities or educational programs in other media, such as radio or television, where these findings apply:

- a. By their nature, media sources are generally unique. Advertisements are placed in a particular source because of the specific audience that source serves;

- b. Competition to furnish advertising space in daily newspapers of general, trade or business circulation in the vicinity of the district is limited;
- c. Cost savings are difficult to quantify where the sources are unique and not interchangeable;
- d. Advertisements may be placed to satisfy legal notice or Board policy requirements;
- e. Other published advertisements or notices, such as routine public notices, personnel recruitment information, etc., are placed in one or more of the publications of general circulation in the local area and other publications, as appropriate;
- f. The communities served by the district rely upon its use of the local daily newspaper as a central source of news and information regarding district activities;
- g. It is unknown whether contracts for advertisements placed with radio, television or other broadcast media are going to result in cost savings if not placed for competitive bid or request for proposal (RFP). If possible savings could be obtained through competitive means, the district would attempt to obtain competitive quotes or bids, as appropriate.

### **Conclusion of Compliance with Law**

Due to limited competition and unique nature of sources, it is unlikely that this class special procurement will encourage favoritism in the awarding of public contracts or substantially diminish competition for such contracts. Further, any contracts awarded under this class special procurement would result in a cost savings available to the district where the district can achieve volume savings through contracts for advertising with a particular media source, or otherwise substantially promote the public interest.

### **3. Advertising Contracts, Sale of**

The district may sell advertising for district publications and activities, regardless of a dollar amount, without competitive bidding, including school newspapers, yearbooks, athletic programs, drama or music programs and the like.

### **Findings of Fact**

Sales of advertising for student activities are generally other fund revenues, where student groups solicit advertisements from local businesses to help with the cost of the activity itself. A common example is the sale of advertising in school newspapers and yearbooks. The circulation of the newspaper and yearbook is limited to the students, teachers, parents and interested members of the community associated with the activities of that particular school. Due to the limited circulation and audience, the businesses that participate by purchasing advertising do so partly in the spirit of good will. Any business is welcome to place an advertisement in the school newspaper or yearbook; all it needs to do is to contact any district school department which publishes one. The district itself would not achieve any increased revenue to the General Fund by seeking competitive bids or proposals for such advertising. This holds true for other student activities, such as athletics, drama or music events and the like.

### **Conclusion of Compliance with Law**

These findings indicate that it is unlikely that this special procurement will encourage favoritism in the awarding of public contracts or substantially diminish competition for such contracts. Any

business or individual who wishes to advertise in this manner may do so by simply contacting the student group responsible for the activity.

The sale of advertising for student activities such as school newspapers, yearbooks, athletic, drama or music programs would not benefit from competitive procurement. Such a requirement would place an unnecessary burden on the student group's activity and there is no financial advantage to the district in doing so. Consequently, the cost savings test is not an issue.

#### 4. Equipment Repair and Overhaul

- a. The district may enter into a public contract for equipment repair or overhaul without competitive bidding, subject to the following conditions:
  - (1) Service or parts required are unknown and the cost cannot be determined without extensive preliminary dismantling or testing; or
  - (2) Service or parts required are for sophisticated equipment for which specially trained personnel are required and such personnel are available from only one source; and
  - (3) The purchase is made within the limits and pursuant to the methods in subsection b. of this rule.
- b. The following limitations apply to this rule:
  - (1) If the contract is less than or equal to \$150,000, the school or department shall submit in writing to the superintendent or designee the reasons why competitive bids or quotes are deemed to be impractical. The superintendent or designee will accordingly document in its procurement file and may enter directly into the contract;
  - (2) If the school or department official thinks the contract may exceed \$150,000, he/she shall submit in writing to the superintendent or designee the reasons why competitive bidding is deemed to be impractical and a description of the cost savings to be obtained by a special procurement. The superintendent or designee may prepare a specific request for the anticipated contract to be obtained through special procurement procedures to submit to the LCRB for approval.

#### **Findings of Fact**

- a. The need for equipment repair or overhaul cannot be anticipated by district staff. If a piece of equipment is broken or not working properly, the district incurs cost of downtime, possible replacement equipment rental fees, staff time and other inconveniences or liabilities to its programs.
- b. Generally, there are a limited number of vendors who are able to perform repair or overhaul on a particular piece of equipment because of its make or manufacture. Sophisticated equipment may require specially trained personnel available from only one source. Often, a piece of equipment will have a partial warranty in place which will guarantee some savings to the district in the parts and/or labor needed to do the repair or overhaul. This warranty savings may only be achieved if the original manufacturer or provider of the equipment performs the necessary repair or overhaul.
- c. The dollar limits on the use of this special procurement procedure ensure that when the cost of the equipment repair or overhaul is expected to exceed \$150,000, the district will either seek

formal competitive bids or, if that is not practical or cost effective, obtain a specific special procurement procedure from the LCRB to proceed with the purchase of the needed repair or overhaul.

### **Conclusion of Compliance with Law**

It is unlikely that this special procurement procedure will encourage favoritism in the awarding of public contracts or substantially diminish competition for such contracts because the dollar limits incorporated into this special procurement when the anticipated costs exceed \$150,000, insure the district will seek formal competitive bids and proposals. If the formal process is not practical, the district will obtain a specific exemption from the LCRB to proceed with the purchase of the needed repair or overhaul.

The awarding of public contracts under this special procurement will result in a cost savings to the district, as required by ORS 279B.085, because the district incurs direct and indirect costs from the moment equipment breaks down or becomes unusable. This special procurement only applies to equipment already owned by the district and does not provide for the purchase of new equipment. The district must be able to purchase necessary services and parts as quickly as possible in order to minimize equipment downtime and potential costs during that downtime.

### **5. Copyrighted Materials**

The district may, without competitive bidding and regardless of a dollar amount, purchase copyrighted materials where there is only one known supplier available for such goods. Examples of copyrighted materials covered by this special procurement procedure may include, but are not necessarily limited to, newly adopted textbooks/instructional materials, workbooks, curriculum kits, reference materials, audio and visual media and non-mass-marketed software from a particular publisher or their designated distributor.

#### **Findings of Fact**

- a. By their nature, copyrighted materials are protected for the use of a single owner. Copyrighted materials may not be duplicated by others without the copyright owner's permission or license. Copyrights are established and regulated under federal law.
- b. Often, copyrighted materials are produced by only one supplier who may be the owner of the copyright or his/her licensee. Textbooks/Instructional materials are examples of copyrighted materials that the district purchases through a sole source. Textbooks/Instructional materials are adopted through a statewide process under the authority of the Oregon Department of Education. A textbook/instructional material adoption defines the various materials which the district will purchase for use in its educational programs.

The district purchases its textbooks/instructional materials through the Northwest Textbook Depository. This practice enables the regional textbook depository to purchase and warehouse textbooks/instructional materials in conformance with adoptions made in the states of their region. The result is that savings are achieved through the depository's combined purchases on behalf of member districts. Freight costs for individual districts are reduced by the bulk purchases of the depository and the depository takes on the cost of stocking and warehousing enough to meet each member district's needs.

The system of textbook/instructional materials distribution enables the district to participate in the largest possible bulk purchasing activity of adopted textbooks/instructional materials in the region. This ensures a cost savings to the district. A savings that would be jeopardized if the district was to act as an individual purchaser.

### **Conclusion of Compliance with Law**

This special procurement will not encourage favoritism or substantially diminish competition in the awarding of public contracts. The production and distribution of copyrighted materials is controlled by the owner of the copyright and may only be permitted through a sole source. The district has no control over this.

The awarding of contracts pursuant to this special procurement will result in a cost savings to the district when it needs to purchase copyrighted materials and there is only one known supplier for such goods, or otherwise substantially promote the public interest.

### **6. Product Prequalification**

- a. When specific design or performance specifications must be met or such specifications are impractical to create or reproduce for a type of product to be purchased, the district may specify a list of approved or qualified products by reference to the prequalified product(s) of particular manufacturers or vendors in accordance with the following product prequalification procedure:
  - (1) The district will make reasonable efforts to notify all known manufacturers and vendors of competing products of the district's intent to compile a list of prequalified products. The notice will explain the opportunity manufacturers and vendors of competing products will have to apply to have their product(s) included on the district's list of prequalified products. At its discretion, the district may provide notice by advertisement in a trade paper of general statewide circulation or other appropriate trade publication; or instead of advertising, the district may provide written notice to those manufacturers and vendors appearing on the appropriate list maintained by the district; and
  - (2) The district will accept manufacturer and vendor applications to include products in the district's list of prequalified products up to 15 calendar days prior to the initial advertisement for bids or proposals for the type of product to be purchased, unless otherwise specified in the advertisement or in the district's written notice.
- b. If the district denies an application for including a product on a list of prequalified products, the district shall promptly provide the applicant with a written notice of the denial and include the reason for denial. The applicant may submit a written appeal within seven calendar days to the district business manager to request review and reconsideration of the denial.

### **Findings of Fact**

- a. There are occasions when the district needs to establish a list of prequalified products before it invites bids or proposals to furnish the products. The district may have a specific performance or design need, but it is impractical for the district to create a specification for the type of

products to be purchased. An example is audiovisual equipment. There is a tremendous variety of audiovisual products offered in the market. The equipment technology is complex and constantly changing. It would be very burdensome and time consuming for the district to generate nonbrand name, generic performance specifications for such equipment every time it wants to make a purchase.

Also, competition would be poorly served because bidders and proposers would not know in advance whether their offered product would meet the general specification substantially enough to be considered a responsive offer. The decision to make an award would be slow, because each product offered would have to be analyzed against the district's specification. Slowdown in the award process affects both bidders, who are asked to hold their bids open until award is made, and district programs, because staff are not able to order the equipment they need until the contract is awarded.

In this case, it might be more cost effective and efficient for the district to prequalify products and establish a list of approved products before invitations to bid are sent out. The prequalification process can be done some time before the need for a new contract. Once the prequalified product list is established, the bidding and contract award process can go quickly and smoothly.

- b. A second occasion when prequalification of products will be useful is when the specific design or performance specifications for a product are so exacting that the district must have time to carefully consider what is offered in the market that may or may not meet the specifications and, if necessary, reconsider its options before issuing an invitation to bid.
- c. This rule sets out a process of prequalification which requires the use of advertisement or other appropriate means to notify vendors of competing products of their opportunity to submit items for prequalification. The district maintains vendor mailing lists which are open to all interested vendors. The district uses these lists routinely to notify vendors of its intentions to prequalify products or to invite bids on products.
- d. This includes a 15-day time limit between the closure of a prequalification list and a related invitation to bid. This time factor ensures that vendors have a reasonable time to apply to include their products on a prequalified product list.
- e. Subsection b., of this rule provides vendors with an appeal process to follow if their application for prequalification is denied.

### **Conclusion of Compliance with Law**

Where prequalification of products is appropriate, it is unlikely that this special procurement will encourage favoritism in the awarding of public contracts or diminish competition for such contracts. There are several safeguards in the rule to prevent this, including notice, advertising, time and appeal process requirements to ensure that vendors are given a fair and open opportunity to participate in the prequalification process.

The prequalification of products process is a time-consuming effort for the district. It is not a shortcut procurement method. The district would use this method only after balancing cost-saving considerations, such as the ability of the district to create or generate nonbrand name generic specifications for types of products or the need for lengthy product evaluation prior to a contract award. If the prequalification method is chosen, it will result in a cost savings to the district because

the normal method of product selection is too cumbersome and costly to pursue, or otherwise substantially promote the public interest.

## **7. Requirements Contracts (Blanket Purchase Orders, Price Agreements)<sup>1</sup>**

- a. The business manager, on behalf of the district, may establish requirements contracts for the purposes of minimizing paperwork, achieving continuity of product, securing a source of supply, reducing inventory, combining district requirements for volume discounts, standardization among school and departments and reducing lead time for ordering.
- b. The district may enter into a requirements contract (also known as a blanket purchase order or price agreement) whereby it is agreed to purchase goods or services for an anticipated need at a predetermined price or price discount from a price list, provided the contract is led by a competitive procurement process pursuant to the requirements of the public contracting code and these rules.
- c. Once a requirements contract is established, schools and departments may purchase the goods and services from the awarded contractor without first undertaking additional competitive solicitation.
- d. School and departments shall use requirements contracts established by the district, unless otherwise specified in the contract, allowed by law or these rules or specifically authorized by the superintendent or designee.
- e. Under the authority of ORS 279A.025 and 279B.085, the district may use the requirements contracts entered into by another Oregon public agency when:
  - (1) The original contract met the requirements of public contracting code; and
  - (2) The original contract allows other public agency usage of the contract; and
  - (3) The original public contracting agency concurs and this is documented by a written interagency agreement between the district and the agency.
- f. The term of any district requirements contract, including renewals, shall not exceed five years unless otherwise permitted under the public contracting code.

### **Findings of Fact**

- a. This rule permits the district to enter into a requirements contract, in which the vendor agrees to provide specified goods and services over the term of the contract at the bid price or discount rate. A requirements contract is useful when the purchase of the goods or services are routine and repetitive. For example, school, office, custodial and facilities maintenance supplies are customarily purchased through requirements contracts.

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<sup>1</sup> The Oregon Procurement Information Network (ORPIN) allows authorized members to utilize the state's price agreement/contracts to purchase goods and services. Authorized Oregon Cooperative Procurement Program (ORCPP) members can legally attach to a state price agreement and forego the competitive bid process. Access to hundreds of competitive price contracts for a wide variety of goods and services: vehicles, computers, furniture, copiers, fax machines, travel, pharmaceuticals, office products, etc., is available. Counties, cities, schools, municipalities or their public corporate entities having local governing authority, a United States governmental agency or American Indian tribe or agency are eligible to participate.

- b. Requirements contracts are a common method of minimizing paperwork, achieving continuity of product, securing a source of supply, reducing inventory, obtaining volume discounts, standardizing usage among schools and departments and reducing lead time for ordering.
- c. The district establishes a requirements contract as a result of open competitive bidding or RFP processes, unless otherwise permitted under the public contracting code.
- d. The district limits the term of a requirements contract, including all renewal options, to a maximum of five years before competitive rebidding must be done, unless otherwise permitted under the public contracting code.
- e. The district may use the requirements contracts established by other public agencies, subject to certain conditions of state law, Board policy and administrative regulation.

### **Conclusion of Compliance with Law**

It is unlikely that this special procurement will result in favoritism in the awarding of public contracts or diminish competition for such contracts. The district will only enter into requirements contracts which result from open competitive bidding processes. This condition applies also to the use of requirements contracts established by other public contracting agencies.

The awarding of district requirements contracts will result in a cost savings to the district, or otherwise substantially promote the public interest. It would be costly and inefficient to make routine, repetitive purchases of goods and services through individual transactions. Also, the guaranteed volume of a requirements contract allows the district to get better prices from bidders.

### **8. Used Personal Property or Equipment, Purchase<sup>2</sup>**

- b. Subject to the provisions of this rule, the district may purchase used property or equipment without obtaining competitive bids or quotes, if the district has determined that the purchase will result in cost savings to the district and will not diminish competition or encourage favoritism. “Used personal property or equipment” is property or equipment which has been placed in its intended use by a previous owner or user for a period of time recognized in the relevant trade or industry as qualifying the personal property or equipment as “used” at the time of district purchase. Used personal property or equipment generally does not include property or equipment if the district was the previous user, whether under a lease, as part of a demonstration, trial or pilot project or similar arrangement.
- c. For purchases of used personal property or equipment costing less than or equal to \$150,000, the district shall, where feasible, obtain three competitive quotes unless the district has determined and documented that a purchase without obtaining competitive quotes will result in cost savings to the district and will not diminish competition or encourage favoritism.
- d. For purchases of used personal property or equipment totaling \$150,000 or more, the district shall attempt to obtain three competitive quotes. The district will keep a written record of the source and amount of quotes received. If three quotes are not available, a written record must be made of the attempt to obtain quotes.

### **Findings of Fact**

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<sup>2</sup> When contracting with another governmental entity, a district has a statutory exception under ORS 279A.025. The district may purchase state/federal surplus property through the Department of Administrative Services (DAS), State Services Division for Surplus Property. For more information on this program, contact DAS at 503-378-3014.

- a. The district is responsible to manage expenditures in the best interests of the public. Cost savings can be achieved through the procurement of used property and equipment. The district purchases used property and equipment when it meets the district's needs and is cost effective. Considerations include type, quality, quantity and estimated useful life of the used item.
- b. Used equipment and property becomes available sporadically and without notice. Used equipment and property is generally sold on a first-come, first-served basis. When used property or equipment does become available, the district must be able to respond immediately in order to obtain the property or equipment.
- e. Some types of property or equipment may not be readily available in the new goods market. The district may have to look for used items to fill the need.
- f. Competition to provide used property and equipment may be very limited and inconsistent, depending on the type of product.
- g. The district maintains vendor lists which include information on whether a vendor provides used property or equipment. These lists are open to all vendors.

### **Conclusion of Compliance with Law**

It is unlikely that this special procurement will encourage favoritism in the award of public contracts or substantially diminish competition for such contracts. The purchase of used property or equipment depends on an inconsistent, sporadic market. When a used item is available, there is often little competition available. Sources for used items of the type, quality and quantity required by the district are inconsistent. This rule requires the district to attempt to obtain and document quotes as appropriate to the dollar amount of the purchase. If the anticipated purchase is over \$150,000, the district will advertise its need.

The use of this special procurement will result in a cost savings to the district, or otherwise substantially promote the public interest. The cost of used equipment or property is generally substantially less than that of new. Savings of 20 percent to 50 percent are not uncommon. Used equipment can provide good value to the district and help ensure the continuation of district services and programs.

## **9. Information Technology Contracts**

The district may enter into a contract to acquire information technology hardware and software without competitive bidding subject to the following conditions:

- b. If the contract amount does not exceed \$150,000, the district shall attempt to obtain three competitive quotes pursuant to the rules governing Intermediate Procurements. The district shall keep a written record of the sources of the quotes or proposals received. If three quotes or proposals are not reasonably available, fewer will suffice, but the district shall make a written record of the effort made to obtain the quotes or proposals.
- c. If the contract amount exceeds \$150,000, the district shall determine and use the best procurement method, pursuant to the public contracting code and these rules, and shall solicit written proposals in accordance with the requirements of the *Attorney General's Model Public Contract and LCRB Rules*. The district shall document the evaluation and award process, which will be part of the public record justifying the award;

- d. If the amount of the contract is estimated to exceed \$150,000, the district shall provide proposers an opportunity to review the evaluation of their proposals before final selection is made.

### **Findings of Fact**

- a. Rapid changes in technology make it necessary for the district to be able to purchase needed computer equipment quickly.
- b. Pricing for high-technology equipment also changes rapidly. It is frequently possible to take advantage of frequent price changes in the marketplace in the purchase of computer equipment.
- c. There is generally sufficient competition among vendors of information technology hardware and software for district business.
- d. The district will follow rules governing special procurements and obtain at least three informally solicited quotes for purchases less than or equal to \$150,000.
- e. If the district requires a brand name or sole source product, the district will follow its rule governing Brand Names or Products, "Or Equal," Single Seller and Sole Source, Section 1. under Special Procurements, to procure it.

### **Conclusion of Compliance with Law**

It is unlikely that this special procurement will encourage favoritism in the award of district contracts or substantially diminish competition for district contracts. The purchase of information technology hardware and software will be made in accordance with other competitive bidding rules contained in this administrative regulation. If the anticipated purchase is over \$150,000, the district will advertise its need.

The use of this special procurement will result in a cost savings to the district, or otherwise substantially promote the public interest. Competition will be encouraged at all dollar levels of purchase of information technology hardware and software. This rule gives the district some flexibility in selecting the method of competitive procurement but requires adherence to the rule on brand name or sole source acquisitions if those situations occur.

## **19. Telecommunications Systems - Hardware and Software Contracts**

- a. The district may enter into a contract to acquire telecommunications system hardware and software, without competitive bidding, subject to the following conditions:
  - (1) If the contract amount does not exceed \$150,000, the district shall attempt to obtain three competitive quotes pursuant to the rules governing Intermediate Procurements. The district shall keep a written record of the sources of the quotes or proposals received. If three quotes or proposals are not reasonably available, fewer will suffice, but the district shall make a written record of the effort made to obtain the quotes or proposals.
  - (2) If the contract amount exceeds \$150,000, the district shall determine and use the best procurement method, pursuant to the public contracting code and these rules and shall solicit written proposals in accordance with the requirements of Chapter 137, Divisions 047 and 049 of the *Attorney General's Model Public Contract and LCRB Rules*. The

district shall document the evaluation and award process, which will be part of the public record justifying the award.

- b. The telecommunications solicitation authorized in subsection 10.a.(1) of these rules shall:
  - (1) State the contractual requirements in the solicitation document;
  - (2) State the evaluation criteria to be applied in awarding the contract and the role of any evaluation committee. Criteria that would be used to identify the proposal that best meets the district's needs may include, but are not limited to, cost, quality, service and support, compatibility, product or system reliability, vendor viability and financial stability, operating efficiency and expansion potential;
  - (3) State the provisions made for bidders or proposers to comment on any specifications which they feel limit competition.

### **Findings of Fact**

- a. Rapid changes in technology make it necessary for the district to be able to purchase needed telecommunications hardware and software quickly.
- b. Since deregulation, there is generally adequate competition among vendors of telecommunication hardware and software to allow the district to make competitive purchases.
- c. Pricing for telecommunications hardware and software also changes frequently. It is important for the district to take advantage of price competition in the marketplace.
- d. The district will follow procedures governing special procurements and document reasonable efforts to obtain at least three informally solicited quotes for purchases over \$10,000 but less than or equal to \$150,000.
- e. If a purchase of telecommunications hardware or software is expected to cost more than \$150,000, the district will use a formal competitive bidding or proposal process in accordance with these rules and the *Attorney General's Model Public Contract and LCRB Rules*.
- f. There are also times when the district needs to purchase specific items that are compatible with current equipment. On these occasions, the district will follow its rule governing Brand Names or Products, "Or Equal," Single Seller and Sole Source, Section 1. under Special Procurements, to make the purchase.

### **Conclusion of Compliance with Law**

It is unlikely that this special procurement will encourage favoritism in the awarding of public contracts or substantially diminish competition for such contracts. The purchase of telecommunications hardware and software will be made in accordance with other competitive bidding rules herein. If the anticipated purchase is over \$150,000, the district will advertise its need.

The use of this special procurement will result in a cost savings to the district, or otherwise substantially promote the public interest. Competition will be encouraged at all dollar levels of purchase of telecommunications hardware and software. This rule gives the district some flexibility in selecting the method of competitive procurement but requires adherence to the rule on brand name or sole source acquisitions if those situations occur.

## **11. Telecommunications Services**

- b. The district shall secure the most competitive, cost-effective telecommunications services of the quality needed to meet all service performance requirements while minimizing administrative and service delivery costs. The district will use routine purchasing procedures whenever possible, but if necessary, the district can consider alternative procurement methods in accordance with this rule.
- c. The district will generally follow the normal competitive procurement processes in obtaining telecommunications services. This process will only be used if necessary where there is a lack of sufficient competition to furnish needed services.
- d. In determining the appropriate procurement method for telecommunications services, the district shall comply with the requirements of ORS 291.038 and determine whether competition exists. In determining whether competition exists, the district may consider the following factors:
  - (1) The extent to which alternative providers exist in the relevant geographic and service market; the greater area of Jackson County;
  - (2) The extent to which alternative services offered are comparable or substitutable in technology, service provided and performance. For example, if the district requires digital services, analog services are not comparable or substitutable. If the district requires fiber optic technology, then copper, microwave or satellite transmission technology may not be comparable or substitutable;
  - (3) The extent to which alternative providers can respond to the district's interest in consistency and continuity of services throughout its service area, volume discounts, equitable service for all users, centralized management and limiting district liability. For example, to be considered as the district's long-distance service provider, any long-distance service vendor must be able to meet, support and interface with the district's centralized automated billing requirements. The district must document for the record, its findings on these factors or any other factors used in determining whether competition exists. In developing its findings, the district may solicit the information either through informal telephone or written contacts or through a formal solicitation such as a RFP.
- d. If the district determines that competition does not exist in the area for the relevant service, the district may proceed to secure the service on a sole source basis, as described in the district's rule governing Brand Names or Products, "Or Equal," Single Seller and Sole Source, Section 1. under Special Procurements.

### **Findings of Fact**

- a. Since deregulation, there is generally adequate competition among vendors of telecommunication services to allow the district to make competitive procurements.
- b. Since there is competition, price competition exists in the marketplace. It is important for the district to take advantage of existing competition.
- c. The district will follow its rules governing special procurements and document reasonable efforts to obtain at least three informally solicited quotes for purchases less than or equal to \$150,000. The district shall keep a written record of the sources of the quotes or proposals received. If three quotes or proposals are not reasonably available, fewer will suffice, but the district shall make a written record of the effort made to obtain the quotes or proposals.

- d. If a purchase of service is expected to cost more than \$150,000, the district will use a formal competitive bidding or proposal process in accordance with these rules and the *Attorney General's Model Public Contract and LCRB Rules*.
- e. There may be occasions where there is limited competition that can furnish telecommunications services of the quality and extent required by district operations. In such instances, the district will follow this rule and also its rule governing Brand Names or Products, "Or Equal," Single Seller and Sole Source, Section 1. under Special Procurements, to procure needed services from the sole source.

### **Conclusion of Compliance with Law**

It is unlikely that this special procurement will encourage favoritism in the awarding of public contracts or substantially diminish competition for such contracts. Routinely, the purchase of telecommunications services will be made in accordance with other competitive bidding rules contained in this administrative regulation. If the anticipated purchase is over \$150,000, the district will advertise its need, issue a written solicitation document and invite written bids or proposals to be furnished in response.

There may be circumstances, however, where sufficient competition does not exist in the relevant geographic and service market area. In such cases, the district will follow this rule in determining whether sufficient competition exists to make a competitive procurement.

The use of this special procurement will result in a cost savings to the district, or otherwise substantially promote the public interest. Competition will be encouraged at all dollar levels of purchase of telecommunications hardware and software. This rule gives the district some flexibility in selecting the method of competitive procurement but requires adherence to the rule on brand name or sole source acquisitions if those situations occur. The rule also states the steps to be taken to document situations where sufficient competition may not exist and a sole source purchase needs to be made.

## **12. Hazardous Material Removal; Oil Cleanup**

- a. The district may enter into public contracts without competitive bidding, regardless of a dollar amount, when ordered to clean up oil or hazardous waste pursuant to the authority granted to the Oregon Department of Environmental Quality (DEQ) under ORS Chapter 466, especially ORS 466.605 through 466.680. In exercising its authority under this exemption, the district shall:
  - (1) To the extent reasonable under the circumstances, encourage competition by attempting to make informal solicitations or to obtain informal quotes from potential suppliers of goods and services;
  - (2) Make written findings describing the circumstances that require the cleanup or maintain a copy of the DEQ order for the cleanup;
  - (3) Record the measures taken under a.1. of this rule to encourage competition, the amount of the quotes or proposals obtained, if any, and the reason for selecting the contractor to whom award is made.

- b. The district shall not contract pursuant to this special procurement in the absence of an order from the DEQ to clean up a site which includes a time limit that would not allow the district to hire a contractor under normal competitive bidding procedures. Goods and services to perform other hazardous material removal or cleanup will be purchased in accordance with normal competitive bidding procedures as described in Board policy with this administrative regulation.

### **Findings of Fact**

- a. When the DEQ orders a public agency to remove or clean up hazardous material or oil, the public agency must respond within a very short time, which is stated in the DEQ order. This time period does not generally allow the agency to take the time necessary to solicit written bids or proposals for the work to be performed. The district would be liable for any delay in responding to DEQ orders to perform hazardous material removal or cleanup.
- b. This exemption will not be used in those situations where there is no DEQ order to remedy the situation. Routine competitive procurement methods will be used where there is no DEQ order to act immediately. The district maintains open lists of vendors who are interested in providing hazardous material removal and cleanup services. Whenever it needs hazardous material removal or disposal, the district makes use of these lists to solicit quotes, bids or proposals as needed, in addition to advertising the procurement as required.
- c. Cost savings are achieved through this exemption because the district can be liable for DEQ penalties and fines if it does not timely remove hazardous materials or oil as ordered. There is also serious risk in these situations, that property damage or personal injury could result if the district is slow to act.

### **Conclusions of Compliance with Law**

It is unlikely that this special procurement will encourage favoritism in the awarding of public contracts or substantially diminish competition for such contracts as required by ORS 279B.085 (3)(a). If it is under DEQ order to act immediately, the district will still attempt to obtain competitive quotes for the work to be performed as it has the ability and time to do so. Unless the district is faced with the quasi-emergency situation of a DEQ order to remove or clean up hazardous waste or oil, it will follow normal competitive procedures to obtain these services.

The award of public contracts pursuant to this special procurement will result in a cost savings to the district in these situations, as required by ORS 279B.085 (3)(b), because the district must comply with the law and avoid and minimize risk to persons and property. Where possible, it will seek competitive quotes for the work to be performed and will award the contract to the lowest, responsive and responsible bidder.

### **13. Renegotiation of Existing Contracts with Incumbent Contractors**

- a. The district may amend or renegotiate contracts with existing vendors, service providers or other parties subject to the limitations of this rule.
- b. The district has determined that value engineering, specialized expertise required, public safety and technical complexity, generally do not apply to this special procurement procedure.
- c. The renegotiated contract falls within a current special procurement procedure, but if not the LCRB must approve a separate special procurement.

- d. The district may renegotiate certain terms, but they must not unreasonably alter the scope of the original contract.

### **Findings of Fact**

- a. The LCRB may amend contracts when it is in the best interest of the district. The superintendent and/or other designee, acting on behalf of the LCRB, may renegotiate certain provisions, including:

- (1) Price;
- (2) Term;
- (3) Delivery and shipping;
- (4) Order size;
- (5) Substitution;
- (6) Warranties;
- (7) On-line ordering systems;
- (8) Price adjustments;
- (9) Product availability;
- (10) Product quality;
- (11) Reporting requirements; or
- (12) Discounts.

Any contract amendment will be supported by legal consideration when necessary to validate the amended provision.

- b. The amended terms must be within a reasonable scope of the original contract, but not fundamentally alter the agreement or nature of goods or services. Districts may, however, request functionally equivalent substitutes for goods or services in the original contract.
- c. The contract as a whole must be more favorable to the individual needs of the district to justify renegotiation. Cost may be a factor in determining what is a favorable change to the original contract, but the district may use factors other than cost that demonstrate that the amended contract is more favorable to the unique needs of the district.

### **Conclusion of Compliance with Law**

This special procurement will not encourage favoritism or substantially diminish competition in awarding public contracts because it already exists as a contract awarded in compliance with the district's special procurement and public contracting code.

The awarding of contracts under this special procurement will result in cost savings to the district when it needs to renew its original contract with vendors, service providers or other parties, or otherwise substantially promote the public interest.

### ***EXEMPTIONS FROM COMPETITIVE BIDDING***

All public contracts shall be based upon competitive bids or proposals, except the following:

- 1. Contracts which have been specifically exempted under ORS 279A.025 and 279C.335; and

2. Contracts covered by the class exemptions in the following set of rules developed pursuant to ORS 279C.335 (2) and (5) and based on Oregon Administrative Rules, Chapter 137, Divisions 46 through 49.

The Board, acting as the Local Contract Review Board (LCRB) for the district, has made the findings required by ORS 279C.330, ORS 279C.335 and ORS 279C.345, and determined that awarding a contract under this exemption is unlikely to encourage favoritism or substantially diminish competition for the public contract and will likely result in a substantial cost savings and other substantial benefits to the district.

In approving a finding under this section, the local contract review board shall consider the type, cost and amount of the contract and, to the extent applicable to the particular public improvement contract or class of public improvement contracts, the following:

1. How many persons are available to bid;
2. The construction budget and the projected operating costs for the completed public improvements;
3. Public benefits that may result from granting the exemption;
4. Whether value engineering techniques may decrease the cost of the public improvement;
5. The cost and availability of specialized expertise that is necessary for the public improvement;
6. Any likely increases in public safety;
7. Whether granting the exemption may reduce risks to the district or the public that are related to the public improvement;
8. Whether granting the exemption will affect the sources of funding for the public improvement;
9. Whether granting the exemption will better enable the district to control the impact that market conditions may have on the cost of and time necessary to complete the public improvement;
10. Whether granting the exemption will better enable the district to address the size and technical complexity of the public improvement;
11. Whether the public improvements involves new construction or renovates or remodels an existing structure;
12. Whether the public improvement will be occupied or unoccupied during construction;
13. Whether the public improvement will require a single phase of construction work or multiple phases of construction work to address specific project conditions; and
14. Whether the district has or has retained under contract, and will use district personnel, consultants and legal counsel that have necessary expertise and substantial experience in alternative contracting methods to assist in developing the alternative contracting method that the district will use to award

the public improvement contract and to help negotiate, administer and enforce the terms of the public improvement contract.

Only these findings are required for each class or individual contract exemption, unless the LCRB specifically excludes a finding or includes an additional finding.

Promulgation of these exemptions can only occur after public notification and a public hearing to receive testimony pertaining to the draft exemptions and findings, pursuant to ORS 279C.335.

## **1. Brand Names or Products, “Or Equal,” Single Seller and Sole Source**

- a. The district may purchase brand names or products from a single seller or sole source without competitive bidding subject to the limitations of this rule.
- b. The district has determined that value engineering, specialized expertise required, public safety and technical complexity, generally do not apply to this exemption.
- c. Solicitation specifications for public contracts of the district shall not expressly or implicitly require any product of any particular manufacturer or seller except as expressly authorized in subsections d. and e. of this rule.
- d. The district may specify a particular brand name, make or product suffixed by “or equal,” “or approved equal,” “or equivalent,” “or approved equivalent” or similar language if there is no other practical method of specification after documenting the procurement file with the following:
  - (1) A brief description of the solicitation(s) to be covered, including contemplated future purchases;
  - (2) Description of the brand name, mark or product to be specified; and
  - (3) A brand name specification may be prepared and used only if the district determines for a solicitation or class of solicitations that only the identified brand name specification will meet the needs of the district based on one or more of the following written determinations:
    - (a) The use of the brand name specification is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts; or
    - (b) Specification of the brand name, mark or product would result in substantial cost savings to the district; or
    - (c) There is only one manufacturer or seller of the product of the quality, performance or functionality required; or
    - (d) The efficient utilization of existing goods requires the acquisition of compatible goods and services.
  - (4) The district shall make reasonable effort to notify all known suppliers of the specified product and invite such vendors to submit competitive bids or proposals.
- e. The district may purchase a particular product or service available from only one source, after documenting the procurement file with the district’s findings of current market research to support the determination that the product is available from only one seller or source. The district’s findings shall include:

- (1) A brief description of the contract or contracts to be covered, including contemplated future purchases;
  - (2) Description of the product or service to be purchased; and
  - (3) The reasons the district is seeking this procurement method, which shall include any of the following:
    - (a) That the efficient utilization of existing equipment, supplies or services requires the acquisition of compatible equipment, supplies or services; or
    - (b) That the goods or services required for the exchange of software or data with other public or private agencies are available for only one source; or
    - (c) That the goods or services are for use in a pilot or an experimental project; or
    - (d) Other findings that support the conclusion that the goods or services are available from only one source.
  - (4) To the extent reasonably practical, the contracting agency shall negotiate with the sole source to obtain contract terms advantageous to the contracting agency.
- f. The district may specify a product or service available from only one manufacturer but available through multiple sellers, after documenting the procurement file with the following information:
- (1) If the total purchase is over \$10,000 but does not exceed \$100,000, and a comparable product or service is not available under an existing state cooperative purchasing contract, competitive quotes shall be obtained by the district and retained in the procurement file; or
  - (2) If the amount of the purchase exceeds \$100,000, the product or service shall be obtained through competitive bidding unless a specific exemption is granted by the LCRB.
- g. If the district intends to make several purchases of the product of a particular manufacturer or seller for a period not to exceed five years, the district will so state in the solicitation file and in the solicitation document, if any. Such documentation shall be sufficient notice as to subsequent purchases. If the total purchase amount is estimated to exceed \$100,000, this shall be stated in the advertisement for bids or proposals.

### **Findings of Fact/Conclusion of Compliance with Law**

It is unlikely that this process will encourage favoritism in the award of public contracts or substantially diminish competition for such contracts, as required by ORS 279C.335 (2)(a).

This class exemption applies only to contracts under a limited dollar amount, and then, only after efforts to obtain competitive quotes are made, or other methods have been employed to ensure that competitive means are used if available. The district maintains open lists from which vendors are contracted for quotations. In addition, as required by ORS 279C.335 (2)(b) award of a public contract subject to the above described exemption should likely result in substantial cost savings and other substantial benefits to the district by virtue of the ability to reduce solicitation costs when it is known that comparable products are not available, or when specifying another product solely to meet a competition requirement might lead to lower initial cost but longer lifetime cost.

## **2. Product Prequalification**

- a. When specific design or performance specifications must be met or such specifications are impractical to create or reproduce for a type of product to be purchased, the district may specify a list of approved or qualified products by reference to the prequalified product(s) of particular manufacturers or vendors in accordance with the following product prequalification procedure:
  - (1) The district will make reasonable efforts to notify all known manufacturers and vendors of competing products of the district's intent to compile a list of prequalified products. The notice will explain the opportunity manufacturers and vendors of competing products will have to apply to have their product(s) included on the district's list of prequalified products. At its discretion, the district may provide notice by advertisement in a trade paper of general statewide circulation or other appropriate trade publication; or instead of advertising, the district may provide written notice to those manufacturers and vendors appearing on the appropriate list maintained by the district; and
  - (2) The district will accept manufacturer and vendor applications to include products in the district's list of prequalified products up to 15 calendar days prior to the initial advertisement for bids or proposals for the type of product to be purchased, unless otherwise specified in the advertisement or in the district's written notice.
- b. The district has determined that special expertise required, generally, does not apply to this rule.
- c. If the district denies an application for inclusion of a product on its list of prequalified products, the district shall promptly provide the applicant with a written notice of the denial and include the reason for denial. The applicant may submit a written appeal within 7 calendar days to the district business manager to request review and reconsideration of the denial.

### **Findings of Fact**

- a. There are occasions when the district needs to establish a list of prequalified products before it invites bids or proposals to furnish the products. The district may have a specific performance or design need, but it is impractical for the district to create a specification for the type of products to be purchased. An example is audiovisual equipment. There is a tremendous variety of audiovisual products offered in the market. The equipment technology is complex and constantly changing. It would be very burdensome and time consuming for the district to generate nonbrand name, generic performance specifications for such equipment every time it wants to make a purchase.

Also, competition would be poorly served because bidders and proposers would not know in advance whether their offered product would meet the general specification substantially enough to be considered a responsive offer. The decision to make an award would be slow, because each product offered would have to be analyzed against the district's specification. Slowdown in the award process affects both bidders, who are asked to hold their bids open until award is made, and district programs, because staff are not able to order the equipment they need until the contract is awarded.

In this case, it might be more cost effective and efficient for the district to prequalify products and establish a list of approved products before invitations to bid are sent out. The prequalification process can be done some time before the need for a new contract. Once the prequalified product list is established, the bidding and contract award process can go quickly and smoothly.

- b. A second occasion when prequalification of products will be useful is when the specific design or performance specifications for a product are so exacting that the district must have time to carefully consider what is offered in the market that may or may not meet the specifications and, if necessary, reconsider its options before issuing an invitation to bid.
- c. This rule sets out a process of prequalification which requires the use of advertisement or other appropriate means to notify vendors of competing products of their opportunity to submit items for prequalification. The district maintains vendor mailing lists which are open to all interested vendors. The district uses these lists routinely to notify vendors of its intentions to prequalify products or to invite bids on products.
- d. This includes a 15-day time limit between the closure of a prequalification list and a related invitation to bid. This time factor ensures that vendors have a reasonable time to apply to include their products on a prequalified product list.
- e. Subsection c. of this rule provides vendors with an appeal process to follow if their application for prequalification is denied.

### **Conclusion of Compliance with Law**

Where prequalification of products is appropriate, it is unlikely that this exemption will encourage favoritism in the awarding of public contracts or diminish competition for such contracts as required by ORS 279C.335 (2)(a). There are several safeguards in the rule to prevent this, including notice, advertising, time and appeal process requirements to ensure that vendors are given a fair and open opportunity to participate in the prequalification process.

The prequalification of products process is a time-consuming effort for the district. It is not a shortcut procurement method. The district would use this method only after balancing cost-saving considerations, such as the ability of the district to create or generate nonbrand name generic specifications for types of products or the need for lengthy product evaluation prior to a contract award. If the prequalification method is chosen, it will likely result in a substantial cost savings and other substantial benefits to the district as required by ORS 279C.335 (2)(b) because the normal method of product selection is too cumbersome and costly to pursue.

### **3. Requirements Contracts (Blanket Purchase Orders, Price)<sup>3</sup>**

- a. The business manager, on behalf of the district, may establish requirements contracts for the purposes of minimizing paperwork, achieving continuity of product, securing a source of supply, reducing inventory, combining district requirements for volume discounts, standardization among schools and departments and reducing lead time for ordering.

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<sup>3</sup> The Oregon Procurement Information Network (ORPIN) allows authorized members to utilize the state's price agreement/contracts to purchase goods and services. Authorized ORCPP members can legally attach to a state price agreement and forego the competitive bid process. Access to hundreds of competitive price contracts for a wide variety of goods and services: vehicles, computers, furniture, copiers, fax machines, travel, pharmaceuticals, office products, etc., is available.

- b. The district has determined that value engineering, specialized expertise required and technical complexity, generally, do not apply to this rule.
- c. The district may enter into a requirements contract (also known as a blanket purchase order or price agreement) whereby it is agreed to purchase goods or services for an anticipated need at a predetermined price or price discount from a price list, provided the contract is led by a competitive procurement process pursuant to the requirements of the public contracting code and these rules.
- d. Once a requirements contract is established, schools and departments may purchase the goods and services from the awarded contractor without first undertaking additional competitive solicitation.
- e. Schools and departments shall use requirements contracts established by the district, unless otherwise specified in the contract, allowed by law or these rules or specifically authorized by the superintendent or designee.
- f. Under the authority of ORS 279A.025 and 279C.335, the district may use the requirements contracts entered into by another Oregon public agency when:
  - (1) The original contract met the requirements of the public contracting code; and
  - (2) The original contract allows other public agency usage of the contract; and
  - (3) The original public contracting agency concurs and this is documented by a written interagency agreement between the district and the agency.
- g. The term of any district requirements contract, including renewals, shall not exceed five years unless otherwise exempted pursuant to ORS 279C.335.

### **Findings of Fact**

- a. This rule permits the district to enter into requirements contracts, in which the vendor agrees to provide specified goods and services over the term of the contract at the bid price or discount rate. A requirements contract is useful when the purchase of the goods or services are routine and repetitive. For example, school, building, office, custodial and facilities maintenance supplies are customarily purchased through requirements contracts.
- b. Requirements contracts are a common method of minimizing paperwork, achieving continuity of product, securing a source of supply, reducing inventory, obtaining volume discounts, standardizing usage among schools, buildings and departments and reducing lead time for ordering.
- c. The district establishes requirements contracts as a result of open competitive bidding or RFP processes, unless otherwise exempted.
- d. The district limits the term of a requirements contract, including all renewal options, to a maximum of five years before competitive rebidding must be done, unless otherwise exempted.
- e. The district may use the requirements contracts established by other public agencies, subject to certain conditions of state law, Board policy and administrative regulation.

### **Conclusion of Compliance with Law**

It is unlikely that this exemption will result in favoritism in the awarding of public contracts or diminish competition for such contracts, as required by ORS 279C.335 (2)(a). The district will only enter into requirements contracts which result from open competitive bidding processes. This

condition applies also to the use of requirements contracts established by other public contracting agencies.

The awarding of district requirements contracts will likely result in a substantial cost savings and other substantial benefits to the district, as required by ORS 279C.335 (2)(b). It would be costly and inefficient to make routine, repetitive purchases of goods and services through individual transactions. Also, the guaranteed volume of a requirements contract allows the district to get better prices from bidders.

**4. Waiver of Bid Security Requirements (Public Improvement Contracts under \$100,000)**

The LCRB may, at its discretion, waive the bid security requirements of ORS 279C.390, if the amount of the contract for the public improvement is less than \$100,000. Although the bid security requirements of ORS 279C.390 are waived for public improvement contracts under \$100,000, the district may impose a bid or quote security requirements for projects under \$100,000, when deemed to be in the best interest of the district.

**Findings of Fact/Conclusion of Compliance with Law**

This rule allows the LCRB to waive bid security requirements for certain public improvement contracts. Waiver of the bid security is provided for by statute without a requirement for findings.

**5. Waiver of Performance and Payment Security Requirements (Public Improvement Contracts under \$100,000)**

The LCRB may, at its discretion, waive the performance/payment security requirements of ORS 279C.390 if the amount of the contract for the public improvement is less than \$100,000. Although the performance/payment security requirements of ORS 279C.390 are waived for public improvement contracts less than \$100,000, the district may impose a performance/payment security requirement for projects less than \$100,000 when deemed to be in the best interest of the district.

**Findings of Fact/Conclusion of Compliance with Law**

This rule allows the LCRB to waive performance/payment security requirements for certain public improvement contracts. Waiver of the performance/payment security is provided for by statute without a requirement for findings.

**6. Projects with Complex Systems or Components**

- a. For contracts for public improvements with significant components that are inherently complex and are also complex to procure through competitive bid, the district may, at its discretion, use RFP competitive procurement methods subject to the conditions described in ORS 279C.400 and conditions enumerated in this exemption.
- b. Definitions. For purposes of this exemption only: “Complex Systems” are defined as those systems which incorporate the procurement of materials or other components which are difficult, if not impossible, to create in an “equal” specifications basis for competitive bid. Examples of such systems include but are not limited to, contracts for supplying and installing computerized controls for building heating, venting, air conditioning systems; and contracts

for artificial surface outdoor multipurpose athletic fields. “Significant” is intended to mean something more than de minimus, but not necessarily the majority of the project as determined by cost.

### **Finding of Fact/Conclusion of Compliance with the Law**

It is unlikely that this exemption will encourage favoritism in the awarding of the public contracts or substantially diminish competition for such contracts as required by ORS 279C.335 (2)(a). Contracts for public improvements occasionally incorporate the procurement of systems, materials, or other components (complex systems) for which it is extremely difficult to design bid specifications. In these situations, utilization of a RFP process where each of the systems can be evaluated utilizing a number of factors, in addition to price, will likely result in substantial cost savings and other substantial benefits to the district as required by ORS 279C.335 (2)(b).

ORS 279C.400 enumerates how RFP’s are to be used if authorized by the LCRB. This criteria, ensures that competitive means will be used and selection will be fair and impartial. As a result, it is unlikely that this process will encourage favoritism in the awarding of public contracts or substantially diminish competition for such contracts as required by ORS 279C.335 (2)(a). The awarding of contracts pursuant to this process will result in optimal value to the district based on selection by the district of the best competitive proposal that meets the stated evaluative criteria.

This class exemption is intended to be used for the types of procurements describe in the findings, where the specific system, materials or components represent a significant portion of the project.

This class exemption **is not** intended to be used for construction manager/general contractor (CM/GC) projects or other methods of alternative procurement unless these projects meet the requirements of this class exemption. The CM/GC and others, not meeting the requirements of this class exemption, may still be procured by RFP, provided that a project or contract specific exemption is promulgated by the LCRB.

## Medford School District 549C

Code: DJC-AR

Revised/Reviewed: xx/xx/xx

### Exemptions from Competitive Bidding and Special Procurements

All public contracts shall be based upon competitive bids or proposals, except the following:

1. Contracts below threshold levels in accordance with ORS 279B.065 (small procurements for goods and services), 279B.070 (intermediate procurements for goods and services) and 279C.412 (intermediate procurements for public improvements);
2. Special procurements for goods and services in accordance with ORS 279B.085 and OAR 137-047-0285;<sup>1</sup>
3. Contracts which have been exempted under ORS 279A.025 and 279C.335; and
4. Any other contract exempted by law.

#### SPECIAL PROCUREMENTS FOR GOODS AND SERVICES

To proceed with a special procurement, the district shall submit a written request to the Board, acting as the Local Contract Review Board (LCRB). This request shall describe the contracting procedure, the goods and services or class of goods and services that are the subject of the special procurement, and circumstances that justify the use of a special procurement.

The special procurement must be unlikely to encourage favoritism in the awarding of a public contract or to substantially diminish competition for public contracts; and (A) must be reasonably expected to result in substantial cost savings to the district or to the public; or (B) must substantially promote the public interest in a matter that could not practicably be realized by complying with requirements that are applicable under ORS 279B.055, 279B.060, 279B.065, 279B.070 or any related rules.

After LCRB approval, the district may proceed with a special procurement. Public notice of the approval of a special procurement must be given in the same manner as provided in ORS 279B.055(4). If the district intends to award a contract through special procurements that calls for competition among prospective contractors, the district shall award the contract to the contractor it determines to be most advantageous to the district.

When the LCRB approves a class special procurement the district may award contracts to acquire goods and services within the class of goods and services in accordance with the terms of the approval without making a subsequent request for a special procurement.

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<sup>1</sup> Procurement law for goods and services uses the term “special procurement.” Procurement law for public improvement contracts does not use the term “special procurement,” but a comparable exemption is allowed under ORS 279C.335.

The following are additional considerations and requirements for specific types of special procurements. The request submitted to the LCRB should address these provisions and satisfy any requirements.

### **Brand Names or Equal<sup>2</sup>**

1. “Brand name or equal specification” means a specification that uses one or more manufacturers’ names, makes, catalog numbers or similar identifying characteristics needed to meet the district’s requirements and that authorizes bidders or proposers to offer goods or services that are equivalent or superior to those named or described in the specification.
2. “Brand name specification” means a specification limited to one or more products, brand names, makes, manufacturer’s names, catalog numbers or similar identifying characteristics.”
3. “Specification” means any description of the physical or functional characteristics of, or of the nature of, goods or services to be procured by a contracting agency.<sup>3</sup>

A brand name or equal specification may be used when the use of a brand name or equal specification is advantageous to the district because the brand name describes the standard of quality, performance, functionality and other characteristics of the product needed by the district. The district is entitled to determine what constitutes a product that is equal or superior to the product specified, and any such determination is final. Nothing in the law or this administrative regulation may be construed as prohibiting the district from specifying one or more comparable products as examples of the quality, performance, functionality or other characteristics of the product needed by the contracting agency.

A brand name specification may be prepared and used only if the district determines for a solicitation or class of solicitations that only the identified brand name specification will meet the needs of the district based on one or more of the following written determinations:

1. That use of the brand name specification is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts;
2. That use of a brand name specification would result in substantial cost savings to the contracting agency;
3. That there is only one manufacturer or seller of the product of the quality, performance or functionality required; or
4. That efficient utilization of existing goods requires the acquisition of compatible goods or services.

### **Advertising Contracts, Purchase of<sup>4</sup>**

The district traditionally purchases advertising in newspapers, however, the district may also purchase advertising in other media, such as radio, television or the internet. Advertising contracts may be procured without competitive procurement based on findings of:

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<sup>2</sup> For additional guidance, see OAR 125-247-0691.

<sup>3</sup> Specification may include a description of any requirement for inspecting, testing or preparing goods or services for delivery.

<sup>4</sup> See OAR 125-247-0288(5) for additional guidance.

1. Advertisements are placed in a particular source because of the specific audience that source serves;
2. Competition to furnish advertising space in daily newspapers of general, trade or business circulation in the vicinity of the district is limited;
3. Cost savings are difficult to quantify where the sources are unique and not interchangeable;
4. Advertisements may be placed to satisfy legal notice or Board policy requirements;
5. Other published advertisements or notices, such as routine public notices, personnel recruitment information, etc., are placed in one or more of the publications of general circulation in the local area and other publications, as appropriate;
6. The communities served by the district rely upon its use of the local daily newspaper as a central source of news and information regarding district activities; or
7. It is unknown whether contracts for advertisements placed with radio, television, the internet or other media are going to result in cost savings if not placed for competitive bid or request for proposal (RFP). If possible, savings could be obtained through competitive means, the district would attempt to obtain competitive quotes or bids, as appropriate.

### **Advertising Contracts, Sale of**

The district may sell advertising for district publications and activities, regardless of a dollar amount, without competitive bidding, including school newspapers, yearbooks, athletic programs, drama or music programs and the like.

Sales of advertising for student activities are generally other fund revenues, where student groups solicit advertisements from local businesses to help with the cost of the activity itself. A common example is the sale of advertising in school newspapers and yearbooks. The district itself would not achieve any increased revenue to the General Fund by seeking competitive bids or proposals for such advertising. This holds true for other student activities, such as athletics, drama or music events and the like.

### **Equipment Repair and Overhaul<sup>5</sup>**

The district may enter into a public contract for equipment repair or overhaul without competitive bidding when competitive procurement is not practical. This may include when service or parts required are unknown and the cost cannot be determined without extensive preliminary dismantling or testing, or service or parts required are for sophisticated equipment for which specially trained personnel are required and such personnel are available from only one source. The district will use a competitive procedure to the extent practicable.

If the repair or overhaul qualifies as an emergency, the district may use emergency procurement procedures.

### **Copyrighted Materials**

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<sup>5</sup> For additional guidance, see OAR 127-247-0288(6).

Contracts for the procurement or distribution of textbooks are exempt from public procurement requirements. Purchase of copyrighted materials available from only one source may be procured through the sole source procedures. Requests for special procurement approval for the purchase of other copyrighted materials may be submitted to the LCRB with supporting information.

### **Used Personal Property or Equipment, Purchase<sup>6</sup>**

The district may purchase used property or equipment without obtaining competitive bids or quotes, if at the time of purchase, the LCRB has determined that the purchase will result in substantial cost savings to the district or promote the public interest and will unlikely diminish competition or encourage favoritism. “Used personal property or equipment” is property or equipment which has been placed in its intended use by a previous owner or user for a period of time recognized in the relevant trade or industry as qualifying the personal property or equipment as “used,” at the time of district purchase.

### **Information Technology and Telecommunication Contracts<sup>7</sup>**

The district may enter into a contract to acquire information technology hardware and software and services (including telecommunications) without competitive bidding if the LCRB has determined that the purchase will result in substantial cost savings to the district or promote the public interest and will unlikely diminish competition or encourage favoritism.

### **Renegotiation of Existing Contracts with Incumbent Contractors**

The district may amend or renegotiate contracts with existing vendors, service providers or other parties in accordance with OAR 137-047-0800.

### **EXEMPTIONS FOR PUBLIC IMPROVEMENT CONTRACTS**

Oregon law<sup>8</sup> allows for exceptions to competitive bidding for public improvement contracts or classes of contracts when the LCRB approves findings that:

1. The exemption is unlikely to encourage favoritism in awarding public improvement contracts or substantially diminish competition for public improvement contracts; and
2. Awarding a public improvement contract under the exemption will likely result in substantial cost savings and other substantial benefits to the district.

In approving a finding, the LCRB shall consider the type, cost and amount of the contract and, to the extent applicable to the particular public improvement contract or class of public improvement contracts, the following:

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<sup>6</sup> For additional guidance, see OAR 125-247-0288(10). When contracting with another governmental entity, a district has a statutory exception under ORS 279A.025. The district may purchase state/federal surplus property through the Department of Administrative Services, State Services Division for Surplus Property. For more information on this program, contact DAS at 503-378-4714.

<sup>7</sup> For additional guidance, see OAR 127-247-0185.

<sup>8</sup> See ORS 279C.335.

1. How many persons are available to bid;
2. The construction budget and the projected operating costs for the completed public improvement;
3. Public benefits that may result from granting the exemption;
4. Whether value engineering techniques may decrease the cost of the public improvement;
5. The cost and availability of specialized expertise that is necessary for the public improvement;
6. Any likely increases in public safety;
7. Whether granting the exemption may reduce risks to the contracting agency, the state agency or the public that are related to the public improvement;
8. Whether granting the exemption will affect the sources of funding for the public improvement;
9. Whether granting the exemption will better enable the contracting agency to control the impact that market conditions may have on the cost of and time necessary to complete the public improvement;
10. Whether granting the exemption will better enable the contracting agency to address the size and technical complexity of the public improvement;
11. Whether the public improvement involves new construction or renovates or remodels an existing structure;
12. Whether the public improvement will be occupied or unoccupied during construction;
13. Whether the public improvement will require a single phase of construction work or multiple phases of construction work to address specific project conditions; and
14. Whether the contracting agency or state agency has, or has retained under contract, and will use contracting agency or state agency personnel, consultants and legal counsel that have necessary expertise and substantial experience in alternative contracting methods to assist in developing the alternative contracting method that the contracting agency or state agency will use to award the public improvement contract and to help negotiate, administer and enforce the terms of the public improvement contract.

In granting this exemption, the LCRB shall:

1. If appropriate, direct the use of alternative contracting methods that take account of market realities and modern practices and are consistent with the public policy of encouraging competition;
2. Require and approve or disapprove written findings by the district that support awarding a particular public improvement contract or a class of public improvement contracts, without the competitive bidding requirements. The findings must show that the exemption complies with the requirements outlined in this administrative regulation; and
3. If the procurement involves construction manager/general contractor services, require the district conduct the procurement in accordance with OAR 137-049-0690.

Notification of a proposed exemption under this section must be published in at least one trade newspaper of general statewide circulation a minimum of 14 days before the date on which the LCRB intends to take action to approve or disapprove the exemption. The notice must state that in response to a written request, the district will hold a public hearing for the purpose of taking comments on the draft findings for an exemption from the competitive bidding requirement.<sup>9</sup> If a hearing is held, the district shall offer an opportunity for any interested party to appear and comment. If the district must act promptly because of circumstances beyond the district's control that do not constitute an emergency, notification of the proposed exemption may be published simultaneously with the district's solicitation of contractors, as long as responses to the solicitation are due at least five days after the agency intends to take action to approve or disapprove the proposed exemption.

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<sup>9</sup> The district may hold a hearing even if there is no written request.

## **Medford School District 549C**

Code: DJC-AR  
Revised/Reviewed: xx/xx/xx

### **Exemptions from Competitive Bidding and Special Procurements**

All public contracts shall be based upon competitive bids or proposals, except the following:

1. Contracts below threshold levels in accordance with ORS 279B.065 (small procurements for goods and services), 279B.070 (intermediate procurements for goods and services) and 279C.412 (intermediate procurements for public improvements);
2. Special procurements for goods and services in accordance with ORS 279B.085 and OAR 137-047-0285;<sup>1</sup>
3. Contracts which have been exempted under ORS 279A.025 and 279C.335; and
4. Any other contract exempted by law.

#### **SPECIAL PROCUREMENTS FOR GOODS AND SERVICES**

To proceed with a special procurement, the district shall submit a written request to the Board, acting as the Local Contract Review Board (LCRB). This request shall describe the contracting procedure, the goods and services or class of goods and services that are the subject of the special procurement, and circumstances that justify the use of a special procurement.

The special procurement must be unlikely to encourage favoritism in the awarding of a public contract or to substantially diminish competition for public contracts; and (A) must be reasonably expected to result in substantial cost savings to the district or to the public; or (B) must substantially promote the public interest in a matter that could not practicably be realized by complying with requirements that are applicable under ORS 279B.055, 279B.060, 279B.065, 279B.070 or any related rules.

After LCRB approval, the district may proceed with a special procurement. Public notice of the approval of a special procurement must be given in the same manner as provided in ORS 279B.055(4). If the district intends to award a contract through special procurements that calls for competition among prospective contractors, the district shall award the contract to the contractor it determines to be most advantageous to the district.

When the LCRB approves a class special procurement the district may award contracts to acquire goods and services within the class of goods and services in accordance with the terms of the approval without making a subsequent request for a special procurement.

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<sup>1</sup> Procurement law for goods and services uses the term “special procurement.” Procurement law for public improvement contracts does not use the term “special procurement,” but a comparable exemption is allowed under ORS 279C.335.

The following are additional considerations and requirements for specific types of special procurements. The request submitted to the LCRB should address these provisions and satisfy any requirements.

### **Brand Names or Equal<sup>2</sup>**

1. “Brand name or equal specification” means a specification that uses one or more manufacturers’ names, makes, catalog numbers or similar identifying characteristics needed to meet the district’s requirements and that authorizes bidders or proposers to offer goods or services that are equivalent or superior to those named or described in the specification.
2. “Brand name specification” means a specification limited to one or more products, brand names, makes, manufacturer’s names, catalog numbers or similar identifying characteristics.”
3. “Specification” means any description of the physical or functional characteristics of, or of the nature of, goods or services to be procured by a contracting agency.<sup>3</sup>

A brand name or equal specification may be used when the use of a brand name or equal specification is advantageous to the district because the brand name describes the standard of quality, performance, functionality and other characteristics of the product needed by the district. The district is entitled to determine what constitutes a product that is equal or superior to the product specified, and any such determination is final. Nothing in the law or this administrative regulation may be construed as prohibiting the district from specifying one or more comparable products as examples of the quality, performance, functionality or other characteristics of the product needed by the contracting agency.

A brand name specification may be prepared and used only if the district determines for a solicitation or class of solicitations that only the identified brand name specification will meet the needs of the district based on one or more of the following written determinations:

1. That use of the brand name specification is unlikely to encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts;
2. That use of a brand name specification would result in substantial cost savings to the contracting agency;
3. That there is only one manufacturer or seller of the product of the quality, performance or functionality required; or
4. That efficient utilization of existing goods requires the acquisition of compatible goods or services.

### **Advertising Contracts, Purchase of<sup>4</sup>**

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<sup>2</sup> For additional guidance, see OAR 125-247-0691.

<sup>3</sup> Specification may include a description of any requirement for inspecting, testing or preparing goods or services for delivery.

<sup>4</sup> See OAR 125-247-0288(5) for additional guidance.

The district traditionally purchases advertising in newspapers, however, the district may also purchase advertising in other media, such as radio, television or the internet. Advertising contracts may be procured without competitive procurement based on findings of:

1. Advertisements are placed in a particular source because of the specific audience that source serves;
2. Competition to furnish advertising space in daily newspapers of general, trade or business circulation in the vicinity of the district is limited;
3. Cost savings are difficult to quantify where the sources are unique and not interchangeable;
4. Advertisements may be placed to satisfy legal notice or Board policy requirements;
5. Other published advertisements or notices, such as routine public notices, personnel recruitment information, etc., are placed in one or more of the publications of general circulation in the local area and other publications, as appropriate;
6. The communities served by the district rely upon its use of the local daily newspaper as a central source of news and information regarding district activities; or
7. It is unknown whether contracts for advertisements placed with radio, television, the internet or other media are going to result in cost savings if not placed for competitive bid or request for proposal (RFP). If possible, savings could be obtained through competitive means, the district would attempt to obtain competitive quotes or bids, as appropriate.

### **Advertising Contracts, Sale of**

The district may sell advertising for district publications and activities, regardless of a dollar amount, without competitive bidding, including school newspapers, yearbooks, athletic programs, drama or music programs and the like.

Sales of advertising for student activities are generally other fund revenues, where student groups solicit advertisements from local businesses to help with the cost of the activity itself. A common example is the sale of advertising in school newspapers and yearbooks. The district itself would not achieve any increased revenue to the General Fund by seeking competitive bids or proposals for such advertising. This holds true for other student activities, such as athletics, drama or music events and the like.

### **Equipment Repair and Overhaul<sup>5</sup>**

The district may enter into a public contract for equipment repair or overhaul without competitive bidding when competitive procurement is not practical. This may include when service or parts required are unknown and the cost cannot be determined without extensive preliminary dismantling or testing, or service or parts required are for sophisticated equipment for which specially trained personnel are required and such personnel are available from only one source. The district will use a competitive procedure to the extent practicable.

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<sup>5</sup> For additional guidance, see OAR 127-247-0288(6).

If the repair or overhaul qualifies as an emergency, the district may use emergency procurement procedures.

### **Copyrighted Materials**

Contracts for the procurement or distribution of textbooks are exempt from public procurement requirements. Purchase of copyrighted materials available from only one source may be procured through the sole source procedures. Requests for special procurement approval for the purchase of other copyrighted materials may be submitted to the LCRB with supporting information.

### **Used Personal Property or Equipment, Purchase<sup>6</sup>**

The district may purchase used property or equipment without obtaining competitive bids or quotes, if at the time of purchase, the LCRB has determined that the purchase will result in substantial cost savings to the district or promote the public interest and will unlikely diminish competition or encourage favoritism. “Used personal property or equipment” is property or equipment which has been placed in its intended use by a previous owner or user for a period of time recognized in the relevant trade or industry as qualifying the personal property or equipment as “used,” at the time of district purchase.

### **Information Technology and Telecommunication Contracts<sup>7</sup>**

The district may enter into a contract to acquire information technology hardware and software and services (including telecommunications) without competitive bidding if the LCRB has determined that the purchase will result in substantial cost savings to the district or promote the public interest and will unlikely diminish competition or encourage favoritism.

### **Renegotiation of Existing Contracts with Incumbent Contractors**

The district may amend or renegotiate contracts with existing vendors, service providers or other parties in accordance with OAR 137-047-0800.

### **EXEMPTIONS FOR PUBLIC IMPROVEMENT CONTRACTS**

Oregon law<sup>8</sup> allows for exceptions to competitive bidding for public improvement contracts or classes of contracts when the LCRB approves findings that:

1. The exemption is unlikely to encourage favoritism in awarding public improvement contracts or substantially diminish competition for public improvement contracts; and

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<sup>6</sup> For additional guidance, see OAR 125-247-0288(10). When contracting with another governmental entity, a district has a statutory exception under ORS 279A.025. The district may purchase state/federal surplus property through the Department of Administrative Services, State Services Division for Surplus Property. For more information on this program, contact DAS at 503-378-4714.

<sup>7</sup> For additional guidance, see OAR 127-247-0185.

<sup>8</sup> See ORS 279C.335.

2. Awarding a public improvement contract under the exemption will likely result in substantial cost savings and other substantial benefits to the district.

In approving a finding, the LCRB shall consider the type, cost and amount of the contract and, to the extent applicable to the particular public improvement contract or class of public improvement contracts, the following:

1. How many persons are available to bid;
2. The construction budget and the projected operating costs for the completed public improvement;
3. Public benefits that may result from granting the exemption;
4. Whether value engineering techniques may decrease the cost of the public improvement;
5. The cost and availability of specialized expertise that is necessary for the public improvement;
6. Any likely increases in public safety;
7. Whether granting the exemption may reduce risks to the contracting agency, the state agency or the public that are related to the public improvement;
8. Whether granting the exemption will affect the sources of funding for the public improvement;
9. Whether granting the exemption will better enable the contracting agency to control the impact that market conditions may have on the cost of and time necessary to complete the public improvement;
10. Whether granting the exemption will better enable the contracting agency to address the size and technical complexity of the public improvement;
11. Whether the public improvement involves new construction or renovates or remodels an existing structure;
12. Whether the public improvement will be occupied or unoccupied during construction;
13. Whether the public improvement will require a single phase of construction work or multiple phases of construction work to address specific project conditions; and
14. Whether the contracting agency or state agency has, or has retained under contract, and will use contracting agency or state agency personnel, consultants and legal counsel that have necessary expertise and substantial experience in alternative contracting methods to assist in developing the alternative contracting method that the contracting agency or state agency will use to award the public improvement contract and to help negotiate, administer and enforce the terms of the public improvement contract.

In granting this exemption, the LCRB shall:

1. If appropriate, direct the use of alternative contracting methods that take account of market realities and modern practices and are consistent with the public policy of encouraging competition;

2. Require and approve or disapprove written findings by the district that support awarding a particular public improvement contract or a class of public improvement contracts, without the competitive bidding requirements. The findings must show that the exemption complies with the requirements outlined in this administrative regulation; and
3. If the procurement involves construction manager/general contractor services, require the district conduct the procurement in accordance with OAR 137-049-0690.

Notification of a proposed exemption under this section must be published in at least one trade newspaper of general statewide circulation a minimum of 14 days before the date on which the LCRB intends to take action to approve or disapprove the exemption. The notice must state that in response to a written request, the district will hold a public hearing for the purpose of taking comments on the draft findings for an exemption from the competitive bidding requirement.<sup>9</sup> If a hearing is held, the district shall offer an opportunity for any interested party to appear and comment. If the district must act promptly because of circumstances beyond the district's control that do not constitute an emergency, notification of the proposed exemption may be published simultaneously with the district's solicitation of contractors, as long as responses to the solicitation are due at least five days after the agency intends to take action to approve or disapprove the proposed exemption.

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<sup>9</sup> The district may hold a hearing even if there is no written request.

## Medford School District 549C

Code: DJCA  
Adopted: 3/03/09  
Revised/Readopted: 3/11/19  
Orig. Code(s): DJCA

### Personal Services Contracts

The district may enter into personal services contracts with qualified professionals as provided by Oregon Revised Statute (ORS) 279A.055. Personal services contracts, as used in this policy, means contracts for specialized skills, knowledge and resources in the application of highly technical or scientific expertise or the exercise of professional, artistic or management discretion or judgment. The district may enter into a personal services contract with a current district employee only when the individual meets independent contractor status in accordance with state, Public Employees Retirement System (PERS) and Internal Revenue Service (IRS) requirements.

Selection of a personal services contractor will be based primarily on qualifications and performance history, expertise, knowledge and creativity and the ability to exercise sound professional judgment.

All personal services contracts shall be based on demonstrated qualifications and competence to perform the required services, encourage competition, discourage favoritism and obtain services at a fair and reasonable price.

Contracts for personal services in excess of \$100,000 shall require prior Board approval.

The superintendent will develop administrative regulations as necessary to implement this policy.

END OF POLICY

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#### Legal Reference(s):

[ORS Chapters 279](#)

[ORS Chapters 279A, 279B and 279C](#)

[ORS 332.107](#)

[ORS 670.600](#)

[OAR 459-010-0030](#)

INTERNAL REVENUE SERVICE, PUBLICATION 1779: INDEPENDENT CONTRACTOR OR EMPLOYEE (Rev. 3-2012).

# Medford School District 549C

Code: DJCA-AR  
Adopted: 3/03/09  
Revised/Readopted: 3/11/19  
Orig. Code(s): DJCA-AR

## Personal Services Contracts

### 1. Personal Services Contracts Defined

- a. Personal services contracts include, but are not limited to: a contract or member of a class of contracts, that the local contracting agency's Local Contract Review Board (LCRB) has designated as a personal services contract pursuant to Oregon Revised Statute (ORS) 279A.055. Personal services include but are not limited to the following:
  - (1) Contracts for services performed as an independent contractor in a professional capacity (e.g., services of an accountant, attorney, data processing consultant, etc.);
  - (2) Contracts for services as an artist in the performing or fine arts (e.g., photographer, painter, etc.);
  - (3) Contracts for services that are specialized, creative and research oriented;
  - (4) Contracts for services as a consultant;
  - (5) Contracts for educational consulting services.
- b. Personal services contracts do not include: (1) public contracts for architectural, engineering or land surveying and related services, or (2) public contracts for construction services.

### 2. Eligibility

The district will follow ORS 670.600, Public Employees Retirement System (PERS) rules Oregon Administrative Rule (OAR) 459-010-0030 and Internal Revenue Service (IRS) Ruling 87-41 in determining whether the individual or business entity qualifies as an independent contractor or is an employee of the district. A valid independent contractor must meet all eight of the following points:

- a. State requirements<sup>1</sup>:
  - (1) The contractor must be free from the direction and the control of the employer;
  - (2) The contractor must obtain required business licenses;
  - (3) The contractor must furnish necessary tools and equipment;
  - (4) The contractor has authority to hire and fire employees;
  - (5) The contractor is paid on completion of portions of projects or on a retainer basis;
  - (6) The construction contractor must be registered under ORS Chapter 701 (For more information call the Construction Contractors Board at 503-378-4621 in Salem.);
  - (7) The contractor must file appropriate business tax returns;
  - (8) The contractor must represent to the public that the labor or services are provided by an independent business.

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<sup>1</sup> See ORS 670.600 for complete listing.

b. PERS requirements:

In determining whether an individual is an employee or independent contractor for PERS contribution purposes, the district will consider the following factors:

- (1) Instructions. An employee must comply with instructions about when, where and how to work. Even if no instructions are given, the control factor is present if the employer has the right to control how the work results are achieved;
- (2) Training. An employee may be trained to perform services in a particular manner. Independent contractors ordinarily use their own methods and receive no training from the purchasers of their services;
- (3) Integration. An employee's services are usually integrated into the business operations because the services are important to the success or continuation of the business. This shows that the employee is subject to direction and control;
- (4) Services rendered personally. An employee renders services personally. This shows that the employer is interested in the methods as well as the results;
- (5) Hiring, supervising and paying assistants. An employee works for an employer who hires, supervises and pays workers. An independent contractor can hire, supervise and pay assistants under a contract that requires him/her to provide materials and labor and to be responsible only for the result;
- (6) Continuing relationship. An employee generally has a continuing relationship with an employer. A continuing relationship may exist even if work is performed at recurring although irregular intervals;
- (7) Set hours of work. An employee usually has set hours of work established by an employer. An independent contractor generally can set his/her own work hours;
- (8) Full-time required. An employee may be required to work or be available full-time. This indicates control by the employer. An independent contractor can work when and for whom he/she chooses;
- (9) Doing work on employer's premises. An employee usually works on the premises of an employer, or works on a route or at a location designated by an employer;
- (10) Order or sequence set. An employee may be required to perform services in the order or sequence set by an employer. This shows that the employee is subject to direction and control;
- (11) Oral or written reports. An employee may be required to submit reports to an employer. This shows that the employer maintains a degree of control;
- (12) Payment by hour, week, month. An employee is generally paid by the hour, week or month. An independent contractor is usually paid by the job or on a straight commission;
- (13) Payment of business and/or traveling expenses. An employee's business and travel expenses are generally paid by an employer. This shows that the employee is subject to regulation and control;
- (14) Furnishing of tools and materials. An employee is normally furnished significant tools, materials and other equipment by an employer;
- (15) Significant investment. An independent contractor has a significant investment in the facilities he/she uses in performing services for someone else;
- (16) Realization of profit or loss. An independent contractor can make a profit or suffer a loss;

- (17) Working for more than one employer at a time. An independent contractor is generally free to provide his/her services to two or more unrelated persons or firms at the same time;
- (18) Making service available to general public. An independent contractor makes his/her services available to the general public;
- (19) Right to discharge. An employee can be fired by an employer. An independent contractor cannot be fired so long as he/she produces a result that meets the specifications of the contract;
- (20) Right to terminate. An employee can quit his/her job at any time without incurring liability. An independent contractor usually agrees to complete a specific job and is responsible for its satisfactory completion, or is legally obligated to make good for failure to complete it.

c. IRS requirements:

Additionally, in determining employee or independent contract status for purposes of the Federal Insurance Contributions Act (FICA), the Federal Unemployment Tax Act (FUTA) or for federal income tax withholding from wages, the district will consider:

- (1) Behavioral control. A worker is an employee when the district has the right to direct and control the worker;
- (2) Financial control. A worker is an independent contractor if he/she can realize a profit or incur a loss. The individual may also be an independent contractor if he/she is not reimbursed for some or all business expenses, especially if those expenses are high or if he/she has a significant investment in his/her work;
- (3) Relationship of the parties. Facts weighed by the district will include any written contracts describing the relationship the parties intended to create; the extent to which the worker is available to perform services for other similar businesses; whether the district provides the worker with employee-type benefits, such as insurance, vacation pay or sick pay; and the permanency of the relationship.

### **3. Personal Services Contracts – Procurement Requirements**

- a. Contracts for personal services less than \$50,000 within a 12-month period, shall, where practical, be based on written or verbal quotes or may be procured through direct negotiations with the contractor.
- b. Contracts for personal services greater than \$50,000 that do not exceed \$100,000 may be based on three written or verbal quotes, or response to a request for proposal (RFP) as deemed appropriate by the superintendent or designee.
- c. Contracts for personal services greater than \$100,000 shall be based on written solicitations, request for qualifications, or the request for proposal (RFP) process.
- d. The district may enter into a personal services contract when the amount of the services does not exceed \$150,000 without obtaining quotes or utilizing the RFP process when only one contractor or sole source provides the services as follows:
  - (1) The superintendent or designee shall make the following written findings for inclusion in the contract file:

- (a) That the efficient utilization of existing goods requires the acquisition of compatible goods or services;
  - (b) That the goods or services required for the exchange of software or data with other public or private agencies are available from only one source;
  - (c) That the goods or services are for use in a pilot or an experimental project; or
  - (d) Other findings that support the conclusion that the goods or services are available from only one source.
- e. If the cost of the services is more than \$100,000, the district may award a contract on a sole source basis, only with Board approval and if prior to the award:
- (1) Notice of the district's intent to contract for the services, including the general specifications of the intended contract, is advertised in at least one newspaper or trade journal of general circulation in the area where the services are to be performed;
  - (2) The advertised notice is published at least seven days before award of contract to allow prospective contractors a reasonable opportunity to submit a protest of the district's intent to contract through the sole source process unless the superintendent gives prior written approval to reduce the number of days based on extraordinary circumstance that do not meet the criteria for an Emergency Procurement pursuant to OAR 137-047-0280; and
  - (3) The protest shall be submitted in writing to the district by the closing date and time of the advertisement notice. It shall state the reason the contract should be competitively solicited.

Protests shall be heard by the Board, whose decision shall be final.

#### **4. ITB/RFP Requirements**

- a. An invitation to bid (ITB) or (RFP) will be used as a formal competitive solicitation that describes the specific services to be performed within a defined period of time. The solicitation will set forth criteria and methods for screening, selecting and ranking the most qualified proposal(s). The solicitation document may result in contracts with more than one provider.
- b. The solicitation document must provide that the district is not responsible for any cost incurred while submitting proposals and that all proposers who respond do so at their own expense.
- c. The solicitation document must, at a minimum, address the following:
  - (1) Requirements for solicitation documents under ORS 279B.055 (2) and 279B.060 (2):
    - (a) A time and date by which the bids or proposals must be received and a place at which bids must be submitted, and may, in the sole discretion of the contracting agency, direct or permit the submission and receipt of bids or proposals by electronic means;
    - (b) The name and title of the person designated for receipt of bids or proposals and the person designated by the contracting agency as the contact person for the procurement, if different;
    - (c) A procurement description;

- (d) A time, date and place that prequalified applications, if any, must be filled and the classes of work, if any, for which bidders must be prequalified in accordance with ORS 279B.120;
  - (e) A statement that the contracting agency may cancel the bid or procurement, or reject any of all bids in accordance with ORS 279B.100;
  - (f) A statement that “Contractors shall use recyclable products to the maximum extent economically feasible in the performance of the contract work set forth in this document.” if the invitation to bid is issued by a state contracting agency;
  - (g) A statement that requires the contractor or subcontractor to possess an asbestos abatement license, if required under ORS 468A.710; and
  - (h) All contractual terms and conditions applicable to the procurement.
- (2) Requirements for solicitation documents under OAR 137-047-0255(2) and 137-047-0260 (2):
- (a) General Information.
    - (i) Notice of any pre-offer conferences as follows:
      - a) The time, date and location of any pre-offer conferences; and
      - b) Whether attendance at the conference will be mandatory or voluntary; and
      - c) A provision that provides that statements made by the contracting agency’s representatives at the conference are not binding upon the contracting agency unless confirmed by written addendum;
    - (ii) The form and instructions for submission of proposals and any other special information, e.g., whether proposals may be submitted by electronic means;
    - (iii) The time, date and place of opening;
    - (iv) The office where the solicitation document may be reviewed;
    - (v) For bidders, a statement whether the bidder is a “resident bidder,” as defined in ORS 279A.120 (1);
    - (vi) Contractor’s certification of nondiscrimination in obtaining required subcontractors in accordance with ORS 279A.110 (4); and
    - (vii) How the contracting agency will notify proposers of addenda and how the contracting agency will make addenda available.
  - (b) Contracting Agency Need.

The character of the goods and services the contracting agency is purchasing including, if applicable, a description of the acquisition, specifications, delivery or performance schedule, inspection and acceptance requirements.
  - (c) Bid/Proposal and Evaluation Process.
    - (i) The anticipated solicitation schedule, deadlines, protest process, and evaluation process;
    - (ii) The contracting agency shall set forth selection criteria in the solicitation document in accordance with the requirements or ORS 279B.060 (2)(h)(E).

- (iii) If the contracting agency intends to award contracts to more than one proposer pursuant to OAR 137-047-0600 (4)(d), the contracting agency must identify in the solicitation document the manner in which it will determine the number of contracts it will award.
  - (d) Applicable preferences described in ORS 279A.125 (2) and 282.210.
  - (e) For contracting agencies subject to ORS 305.385, contractor's certification of compliance with the Oregon tax laws in accordance with ORS 305.385.
  - (f) All contract terms and conditions, including a provision indicating whether the contractor can assign the contract, delegate its duties, or subcontract the goods or services without prior written approval from the contracting agency.
- d. Bids or proposals must be advertised at least once in a newspaper of general circulation in the area where the contract is to be performed and in as many additional issues and publications as may be necessary or desirable to achieve adequate competition unless the contracting agency uses electronic advertising.
  - e. Unless otherwise specified in rules adopted pursuant to ORS 279A.065, the LCRB will give notice at least seven days before the solicitation closing date.
  - f. All advertisements shall describe at minimum the requirements under OAR 137-047-0300 (3):
    - (1) Where, when, how, and for how long the solicitation document may be obtained;
    - (2) A general description of the goods or services to be acquired;
    - (3) The interval between the first date of notice and closing, which will be at least seven days, unless a shorter period is in the public interest and it will not substantially affect competition;
    - (4) The date that persons must file applications for prequalification if prequalification is a requirement and the class of goods or services is one for which persons must be prequalified.
    - (5) The office where contract terms, conditions and specifications may be reviewed;
    - (6) The name, title and address of the individual authorized by the contracting agency to receive offers;
    - (7) The scheduled opening; and
    - (8) Any other information the contracting agency deems appropriate.

## **5. Screening and Selection Procedures**

- a. The superintendent or designee shall review, score and rank all responsive proposals according to the evaluation criteria in the ITB or RFP and applicable law. The contracting agency will award the contract to the lowest responsible bidder or proposer or multiple responsible bidders or proposers in accordance with ORS 279B.055 (10) and 279B.060 (10), and OAR 137-047-0600.
- b. To determine whether the bidder or proposer has met the standards of responsibility under ORS 279B.110 (2) and OAR 137-047-0640 (1)(c)(F), the LCRB will consider whether the bidder or proposer has:
  - (1) Available the appropriate financial, material, equipment, facility and personnel resources and expertise, or the ability to obtain the resources and expertise, necessary to indicate the capability of the bidder or proposer to meet all contractual responsibilities;

- (2) A satisfactory record of performance<sup>2</sup>. The contracting agency will document in the solicitation file its basis for determining that the offeror is not responsible because the offeror does not meet this requirement;
  - (3) A satisfactory record of integrity<sup>3</sup>. The contracting agency will document its basis for determining that the offeror is not responsible because the offeror does not meet this requirement;
  - (4) Qualified legally to contract with the contracting agency;
  - (5) Supplied all necessary information in connection with the inquiry concerning responsibility. If an offeror fails to promptly supply information requested by the contracting agency concerning responsibility, the contracting agency shall base the determination of responsibility upon any available information, or may find the bidder or proposer not to be responsible; and
  - (6) Not been debarred by the contracting agency under ORS 279B.130.
- c. Final ranking will be based on all information obtained during the evaluation process. Price will be considered, but will not necessarily govern selection of the contractor(s).
  - d. Contracts entered into may be amended, provided the original contract allows for the particular amendment and the services to be provided under the amendment are included within or directly related to, the scope of the project or the scope of the services described in the solicitation document.

## **6. Documentation**

Documentation providing evidence of competition shall be maintained by the district for all contracts entered into by the district.

## **7. Fingerprinting**

If the scope of the work performed by a contractor(s) or his/her employee(s) may result in direct, unsupervised contact with students, he/she will be required to submit to fingerprinting and criminal records checks as required by law.

## **8. Payment**

Payment will be made only upon completion of the performance of specific portions of the project or on the basis of an annual or periodic retainer as specified by the district in the personal services contract.

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<sup>2</sup> A contracting agency should review carefully the offeror's record of contract performance if the offeror is or recently has been materially deficient in contract performance. In reviewing the offeror's performance, the contracting agency should determine whether the offeror's deficient performance was expressly excused under the terms of the contract, or whether the offeror took appropriate corrective action. The contracting agency may review the offeror's performance on both private and public contracts.

<sup>3</sup> A contracting agency may determine that an offeror lacks integrity because of a lack of business ethics such as a violation of environmental laws or false certification made to the contracting agency. A contracting agency may find that an offeror is not responsible based on a lack of integrity of a person having influence or control over the offeror.



## EXECUTIVE SUMMARY

<b>Meeting Date:</b>	October 3, 2024
<b>Agenda Item:</b>	Staff Assignment Report
<b>Item Type:</b>	Report
<b>Administrator:</b>	Janel Reed
<b>Objective:</b>	Approve new licensed and administrative staff.

**Background:**

Under current Board policy, one responsibility of the Board is to approve the hiring of licensed and administrative staff. The Staff Assignment Report includes that information, as well as any retirements or resignations.

**Additional Materials:** Staff Assignment Report

**Recommendation:** Administration recommends approval of the new hires.

**Suggested Motion:** A formal motion is not required if approved with the consent agenda.

**Medford School District Staff Assignment  
School Board Meeting, October 3, 2024**

**Recommendation for election to the position of Temporary Teacher for the 2024-25 school year:**

Employee Name	School/Location	Position	University/College
Brodahl, Haylee	Wilson	Elementary - Grade 3	Southern Oregon University
Richardson, Chris	McLoughlin	ELD	Southern Oregon State College

**Resignations:**

Employee Name	School/Location	Position	Effective Date
Broaddus, Brian	Hedrick	PE/Health	11.19.2024 (60 day hold date)
Carr, Christina	Special Education	Homebound Instructor	09.06.2024
Cate, Rebecca	Innovation Academy	Assistant Principal	10.31.2024

**Retirements:**

Employee Name	School/Location	Position	Effective Date
Frazier, Donnie	Information Technology	Chief Information Officer	09.30.2024
Hauser, Stacey	Medford Online Academy	Elementary - Grade 4/5	09.20.2024



## EXECUTIVE SUMMARY

<b>Meeting Date:</b>	October 3, 2024
<b>Agenda Item:</b>	Consideration for approval of minutes from previous meeting(s)
<b>Item Type:</b>	Minutes
<b>Administrator:</b>	Bret Champion, Jodi Fahy
<b>Objective:</b>	Approve meeting minutes

**Background:** School Board policies BDDG and BDDC indicate the Board shall provide for the taking of written minutes of all its meetings, and that the minutes shall be available to the public after approval by the Board.

**Additional Materials:** Draft minutes for the Board Retreat held on August 30, 2024, the Work Session held on September 5, 2024, the Lunch & Learn held on September 11, 2024, and the Board Meeting held on September 19, 2024.

**Recommendation:** Approve the minutes included with the consent agenda.

**Suggested Motion:** A formal motion is not required if approved with the consent agenda.

Board Retreat  
Friday, August 30, 2024 8:30 AM

Oakdale Middle School Room 230  
815 S. Oakdale Ave.  
Medford, OR 97501

Michelle Atkinson: Present  
Lilia Caballero: Present  
Kendell Ferguson: Present  
Jeff Kinsella: Present  
Suzanne Messer: Present  
Michael Williams: Present  
Cynthia Wright: Present

*A video recording of the Board meeting can be found on the district website at this link:  
<https://portal.stretchinternet.com/msbm>*

### **1. Call to Order / Pledge of Allegiance / Roll Call**

Board Chair Cynthia Wright called the meeting to order at 8:30 a.m. and led the Pledge of Allegiance. Roll was called.

Chair Wright welcomed the public, stated the district's vision statement, and read the public meeting civility standards for Medford School District (MSD) Board meetings.

Superintendent Bret Champion acknowledged the daylong internet outage on the previous day and informed the public that the normal livestream system used was not operable and therefore the meeting would be available on Zoom with the link provided on the district website. He reassured the Board that the meeting would be recorded and uploaded to the website.

Chair Wright stated the purpose for the annual Board Retreat as setting goals, reviewing student success data, determining work session topics, and revisiting and updating Board norms and procedures.

### **2. Agenda Adjustments and Approval**

**Chair Wright made a motion to move item 3.e. Board Operating Agreement including School Visits to the top of the agenda. Suzanne Messer seconded the motion.**

**Roll call:**

**Kinsella: Yea, Messer: Yea, Atkinson: Yea, Ferguson: Yea, Wright: Yea**

**Motion carried.**

*Board Directors Caballero and Williams were not present at this time.*

### **3. Board Retreat Agenda Topics**

#### **3.a. Board Operating Agreement including School Visits**

*Board Director Williams arrived at 8:38 a.m.*

Chair Wright expressed concern regarding the disruption during the August 27 Special Board Meeting and directed attention to the Salem-Keizer Meeting Behavior Management Exhibit. The Board took a few minutes to review the document and share their thoughts.

Board Directors put forth questions and comments regarding disruptive behavior at meetings; ability to conduct meetings in a civil manner; feeling unsafe; perception of feeling unsafe or being uncomfortable; threatening behavior; expectations of audience as stated at the beginning of meetings; public meeting laws; options for conducting meetings virtually; and citizen comment.

At the conclusion of the discussion, it was decided that Board Directors Messer, Ferguson, and Williams would meet in a subcommittee to review the Salem-Keizer Meeting Behavior Management Exhibit and bring forward a recommendation to the Board.

*The Board took a break at 9:32 a.m. The meeting resumed at 9:45 a.m.*

Board Chair Wright directed attention to the Board Operating Agreement document. Board Directors reviewed each section, discussed the purpose and meaning of each area, and provided editing suggestions.

*Board Director Caballero arrived at 9:55 a.m.*

Topics of discussion included, following the chain of command in the complaint process; respecting the collective decision-making process; the purpose of Board one-on-one meetings with the superintendent; communicating with district patrons; scheduling school visits; and recapping citizen comments.

*The Board took a break at 10:32 a.m. The meeting resumed at 10:39 a.m.*

### **3.b. Academics - Curriculum Audit Overview, Process, and Progress**

Champion spoke regarding the Strategic Planning process in March 2020 that led to the unanimous agreement to engage in the Curriculum Management Audit (CMA). Deputy Superintendent Jeanne Grazioli provided an overview of the CMA that included the background; site visits; the five focus areas including District Vision and Accountability, Curriculum, Consistency and Equity, Feedback, and Productivity; and the Six Key Recommendations.

Grazioli went on to explain the process for the Curriculum Management Plan that included three large areas of effort: Instructional Improvement; Policy Revision; and Instructional Technology Improvement.

Board Directors put forth questions and comments regarding the process for a district technology plan; the timeline for rolling out the math curriculum; identifying areas of improvement; requested a work session on instructional leadership; focus of classroom assessment; classroom management; and student engagement.

*The Board took a lunch recess at 12:05 p.m. The meeting resumed at 12:37 p.m.*

Champion and Grazioli continued presenting on the organizational shift and CMA timeline. Grazioli demonstrated where to find the Curriculum Management Plan on the district website and pulled up the fourth grade English language arts (ELA) resources and shared the importance of teacher feedback around pacing, rubrics, and rigor.

Board Directors put forth questions and comments regarding the options for viewing the material; teacher professional development for curriculum writing; decision for choosing to write district curriculum over purchasing published curriculum; Oregon standards and graduation credit requirements compared to other states; and teaching to the standard or the need.

Executive Director of Security, Leadership and Facilities Ron Havniear provided an overview of Change Management that included Project Management; the Implementation Curve; Change Management - Support System; Awareness, Desire, Knowledge, Ability, Reinforcement (ADKAR); Resistance; Navigating the Knowledge to Ability Gap; and Resist Comfort - Fight through Discomfort.

Board Directors put forth questions and comments regarding how to make people aware of the need for a new curriculum; and training/professional development opportunities.

*The Board took a break at 1:45 p.m. The meeting resumed at 1:53 p.m.*

Grazioli provided an overview of the preliminary ELA achievement data for grades 3 – 11.

Board Directors put forth questions and comments regarding largest gains/schools identified; year-to-year data of cohorts; low participation rates of OSAS testing/requirement; secondary attendance factored in; and addressing truancy.

### **3.c. Board/District Goals & Objectives and Measures of the System**

Board Directors and Superintendent Champion reviewed the current Board/District Goals & Objectives and Measures of the System, provided feedback, and outlined priorities for the 2024-25 school year. The discussion included reading achievement goals; 2024-2025 Priorities and Desired Outcomes; flexible credit opportunities; focus on attendance; tracking system for school incidents/consistent reporting; and talented and gifted students.

### **3.d. Work Session Topics for 2024-25**

Chair Wright opened the floor for work session topic priorities for the 2024-25 school year. Suggested topics included:

- Technology Plan / Artificial Intelligence (AI)
- Local Option Levy
- Communication with Families
- Attendance System / Data by Demographics
- Restorative Practices
- TAG Program / Advanced Courses (middle & high schools) / Advanced Placement (AP Honors)
- Instructional Leadership – Principals
- Student Behavior Data / Tracking Data/Incidents
- Classroom Management Instructions

Suggestions for Lunch & Learn meetings included Career & Technical Education; Math Curriculum; and Conflict Resolution.

### **3.e. Recess Meeting for Lunch (approximately 12:00 - 12:30 PM)**

*Lunch took place from 12:05 - 12:37 p.m.*

### **3.f. Legislative Priorities**

Board Directors and administrative staff discussed strategies and timing when speaking with local legislators on priority issues that included special education, changes to the Current Service Level (CSL) formula, and fully funding the Quality Education Model (QEM). The Board suggested scheduling a meeting in the fall with local legislators.

## **4. Consent Agenda**

### **4.a. Staff Assignment Report**

### **4.b. Minutes from previous meeting**

**Hearing no objections, the consent agenda was approved by unanimous consent.**

## **5. Adjournment**

Chair Wright announced the next Work Session scheduled for September 5 at Oakdale Middle School. The meeting was adjourned at 3:06 PM.

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Chair of the District School Board  
Medford School District

ATTEST:

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Superintendent-Clerk

DRAFT

Work Session  
Thursday, September 5, 2024 5:30 PM

Oakdale Middle School Room 230  
815 S. Oakdale Ave.  
Medford, OR 97501

Michelle Atkinson: Present  
Lilia Caballero: Present  
Kendell Ferguson: Present  
Jeff Kinsella: Present  
Suzanne Messer: Present  
Michael Williams: Present  
Cynthia Wright: Present

*A video recording of the Board meeting can be found on the district website at this link: <https://portal.stretchinternet.com/msbm> and the slide presentation can be viewed at this link: <https://meetings.boardbook.org/Meeting/Supplementals/1545?meeting=652000>*

### **1. Call to Order / Pledge of Allegiance / Roll Call**

Board Chair Cynthia Wright called the meeting to order at 5:30 PM and led the Pledge of Allegiance. Roll was called.

Chair Wright welcomed the public, stated the district's vision statement, and read the public meeting civility standards for Medford School District (MSD) Board meetings.

### **2. Agenda Adjustments and Approval**

**Hearing no objections, the agenda was approved by unanimous consent.**

### **3. Recognitions**

#### **3.a. New Administrators**

Superintendent Bret Champion introduced the new administrators noting the benefits of the leadership pipeline as they had all served in prior leadership roles in the district. The administrators shared a brief introduction and vision in their new roles. The new leaders included:

- Jordan Gieg, Principal – Jackson Elementary School
- Amy Ponder, Principal – Roosevelt Elementary School
- Felicia Holt – Special Education Director

### **4. Work Session Items**

#### **4.a. Back-to-School Update**

Deputy Superintendent Jeanne Grazioli provided a back-to-school update that included first day of school photos; kindergarten soft start; family outreach team helping with online registration; new teachers; safety training at inservice; elementary open houses; middle school advisory period; seismic upgrades at North Medford High School and Jacksonville Elementary School; and safety vestibules added to five new schools.

Board Directors put forth questions and comments regarding the positive feedback from online registration at the Rogue Valley Growers and Crafters Market; positive high school registration experience; improved accessibility of counselors; funding source for seismic upgrades; appreciate retaining assistant principals; HVAC update at Jacksonville Elementary; and safety vestibules and fencing.

#### **4.b. Budget Follow-up & Next Steps**

Assistant Superintendent of Operations Brad Earl provided a budget follow-up and next steps report as requested at the June 20 Board meeting. Topics included school consolidation; local option levy; legislative priorities; Current Service Level (CSL); and an update on the local option levy polling feedback (analysis to be shared with the Board at a Lunch & Learn meeting on September 11).

#### **4.c. Cell Phone Discussion**

Chair Wright reminded the Board that there was interest expressed at the end of the school year to have a discussion regarding student cell phone use in school. She opened the floor for discussion of the topic.

Board Directors suggested surveying staff, students, parents/guardians, and the community; hosting a town hall meeting; asking for input/providing the survey at the Multicultural Fair on September 28; linking information/research articles on the district website; clarify which kind of electronic devices; and invite secondary principals to a Board meeting to share current cell phone procedures at individual sites.

It was determined that staff would develop a draft plan for a survey to go out to staff, students, and parents/guardians; offer the survey at the Multicultural Fair and Rogue Valley Growers & Crafters Market; and include behavioral and mental health data and research to the district website. Champion stated that staff would present the draft plan at the September 19 Board meeting.

#### **4.d. School Board Policies - *first reading***

Board Directors reviewed the policy packet, asked clarifying questions, and provided feedback for revisions. It was determined that staff would follow up with the questions and make the recommended revisions to be included in the second reading on September 19.

### **5. Consent Agenda**

#### **5.a. Staff Assignment Report**

#### **5.b. Minutes from previous Board meeting**

**Hearing no objections, the consent agenda was approved by unanimous consent.**

### **6. Announcements**

#### **6.a. September 19, 2024 - School Board Meeting at 5:30 PM - Oakdale Middle School**

Chair Wright announced the next Board meeting on September 19 at Oakdale Middle School.

**7. Adjournment**

There being no further business before the Board, the meeting was adjourned at 6:35 PM.

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Chair of the District School Board  
Medford School District 549C

ATTEST:

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Superintendent-Clerk

DRAFT

Lunch & Learn Meeting  
Wednesday, September 11, 2024 12:00 PM

This meeting was held virtually.

Michelle Atkinson: Present  
Lilia Caballero: Present  
Kendell Ferguson: Present  
Jeff Kinsella: Present  
Suzanne Messer: Present  
Michael Williams: Present  
Cynthia Wright: Present

*A video recording of the Board meeting can be found on the district website at this link:  
<https://portal.stretchinternet.com/msbm>.*

### **1. Call to Order / Roll Call**

Board Chair Cynthia Wright called the meeting to order at 12:05 p.m. Attendance was noted.

### **2. Polling Feedback on Local Option Levy**

Chair Wright welcomed everyone to the first Lunch and Learn of the school year and shared the purpose of the meeting as a chance to hear feedback from a poll that was conducted during the summer.

The purpose of the poll was to evaluate support for a possible local option levy, as well as to discover some perception data. Patinkin Research Strategies conducted the poll. Ben Patinkin and Maggie Simich presented the feedback, which included their methodology, demographics, and key findings.

Patinkin spoke on the community's perceptions of the district, including those of current parents, parents of former students, and those who have never had students in Medford School District schools. He shared the initial interest level of participants, followed by more in-depth responses once participants received more information.

Patinkin went on to share the level of support based on what was included in the levy package; how price sensitivity has an impact on support; and responses when asked what Medford School District should focus on through the potential local option levy. Top tier funding items included dedicated staff for student safety and well-being, and expanding college and Career and Technical Education (CTE) opportunities.

Board members put forth questions regarding maintaining teachers versus obtaining additional teachers; the timing and plausibility of going out for a local option levy; and clarification on participant demographics.

Chair Wright thanked Patinkin for the presentation and expressed her appreciation of knowing where we stand with a large group of our families. She noted that a decision would not be made at this time, but would like to form a Board subcommittee to explore the option further.

She requested Board members who were interested in joining the committee to email Superintendent Champion or Executive Assistant Jodi Fahy.

**3. Adjournment**

Chair Wright adjourned the meeting at 12:46 p.m.

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Chair of the District School Board  
Medford School District 549C

ATTEST:

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Superintendent-Clerk

DRAFT

Regular Meeting  
Thursday, September 19, 2024 5:30 PM

Oakdale Middle School Room 230  
815 S. Oakdale Ave.  
Medford, OR 97501

Michelle Atkinson: Present  
Lilia Caballero: Present  
Kendell Ferguson: Present  
Jeff Kinsella: Present  
Suzanne Messer: Absent  
Michael Williams: Present  
Cynthia Wright: Present

*A video recording of the Board meeting can be found on the district website at this link:  
<https://portal.stretchinternet.com/msbm> and the slide presentation can be viewed at this link:  
<https://meetings.boardbook.org/Meeting/Supplementals/1545?meeting=653867>*

### **1. Call to Order / Pledge of Allegiance / Roll Call**

Board Chair Cynthia Wright called the meeting to order at 5:30 PM and led the Pledge of Allegiance. Roll was called.

Chair Wright welcomed the public, stated the district's vision statement, and read the public meeting civility standards for Medford School District (MSD) Board meetings.

### **2. Agenda Adjustments and Approval**

**Hearing no objections, the agenda was approved by unanimous consent.**

### **3. Citizen Comments**

Chair Wright shared the citizen comment guidelines. The following patrons came forward to speak.

**Koda Stokes**/(attended virtually)/Former student and employee/Divisive tone of meetings/support for district.

**Christy Clark**/(attended virtually)/Parent/Represented a number of parents in support of district leadership.

**Russ Kautz**/Resident/First amendment rights and role of School Board.

**Sheryl Zimmerer**/Logos Executive Director/Support of School Board and district administration.

**Danielle Craig**/Parent/Support of safety and security prioritized by current administration.

**Summer Wolarik**/Parent/Inconsistent resources/staffing/disappointed with leadership.

**Paul Schneider**/Parent/Support of schools and administration.

**Jessica Nickerson**/Parent/Concern for bullying and safety/lack of communication.

**Dee Anne Everson**/United Way Executive Director/Support of superintendent and district focus on safety.

**Joe Pastrano**/ALBA Program/Board support of program.

**Nathanael Swan**/Parent/Overreaction of safety threat at Board meeting/SRO situation/superintendent salary.

**Julie Barry**/Former teacher/administrator/Appreciation for superintendent and emphasis on safety preparedness.

**Michelle Wallman**/Parent/Support of superintendent leadership and district staff.

**Carl Thomas**/Project Youth +/Challenges facing youth/community support for students to progress and grow.

**Kim McKandes**/Parent/Grandparent/Focus on children, programs, and strategies instead of divisiveness.

**Mindy Wamack**/Patron/Traffic safety at Griffin Creek/district swag.

**Logan Vaughn**/Patron/Repercussions of speaking at meeting/support of Board Director Michael Williams.

**Paul Cynar**/Teacher/Dissatisfied with Board comments at prior meetings/filed complaints against Board Chair Wright and Board Director Kinsella.

**Linda McFadden**/Patron/Reason for declining enrollment/support of Board Director Williams/offended by Board Chair Wright's comments in news article.

Chair Wright noted the Board received written comments for the following patrons: Christy Clark, Julie Brooksby, Mike Powers, Sunny Spicer, Britt and Jake Zimmerman, Michele Simmons, Rebekah Wolf, Jim DeBoer, Mary Lathen, Ben Brooksby, Alex Lukaris, Misti Contento, Sunny Jones, Tessa Phenix, Aaron Hovivian, Amber Miller, Andy Chasteen, Dylan St. Chair-Bates, Justin Callahan, and Maggie Mayers.

#### **4. Items for Information & Discussion / Board Action Items**

##### **4.a. Summer Projects & Facilities Update**

Superintendent Bret Champion commended the facilities team for their diligent work over the summer. He also celebrated the Information Technology (IT) Team for their tireless work behind the scenes. Executive Director of Security, Leadership and Facilities Ron Havniar provided an overview of the Seismic Rehabilitation Grant Program and district upgrades as a result of the program. He updated the Board on summer projects that included the North Medford High School gymnasium floor, installation of security vestibules, outdoor covered structures, Innovation Academy outdoor space enclosure, Hedrick fencing, South High School weight room, and other projects throughout the district. He went on to share information on upgrades to emergency response buttons (ERBs).

Board Directors put forth questions and comments regarding activation of ERBs and measures in place to mitigate false activations; consequences when intentionally activating ERBs; prioritization process for projects; county or district responsibility for painting crosswalks; and appreciation for the fencing at Hedrick.

*The meeting was recessed at 7:00 PM. and resumed at 7:08 PM.*

**4.b. Cell Phone Policy Community Engagement Plan**

Communications & Community Relations Director Natalie Hurd shared a draft Community Engagement Plan based on the Board’s discussion and feedback at the September 5 Work Session. The draft plan included launching a survey to parents/guardians, students, and staff; providing principal feedback at the October 3 Work Session; Community Outreach at various events; hosting a town hall meeting; and providing a final report at a future Board meeting.

Board Directors put forth questions and comments regarding where to find the survey when launched (paper, digital, and in both English and Spanish), and including book club information for Anxious Generation.

**4.c. Board Operating Agreement Adoption**

**MOTION: I move to approve the Board Operating Agreement as presented. This motion was made by Jeff Kinsella and seconded by Kendell Ferguson.**

**Discussion:** Board Directors and Superintendent Champion had a robust discussion around the language included in the School Visits section of the Board Operating Agreement regarding 48 hour advance notice, and amount of time and purpose for the visit. The discussion also included the purpose for the principal to be available during a school visit, invitations from teachers to attend a presentation, Board presence on campus, and roles and responsibilities of Board members. A suggestion was made to the revise the language in this section.

Additionally a request was put forth to revise language in the Communication between Board and District Patrons and Communication between Board and the Media sections to reflect a Board members preference to reply individually to patrons and to the media, as long as the statements indicated the Board member was not speaking for the entire Board. Other topics of the discussion included caution for deliberating in an email chain, not responding to the entire Board, and clarifying that opinions presented individually were personal opinions and not that of the Board.

**Director Kinsella rescinded the original motion.**

**MOTION: I move to approve the Board Operating Agreement as amended. This motion, made by Kendell Ferguson and seconded by Michael Williams, Passed.**

**Roll call vote:**

**Kinsella: Yea, Williams: Yea, Caballero: Yea, Ferguson: Yea, Atkinson: Yea, Wright: Yea, Messer: Absent**

**Yea: 6, Nay: 0, Absent: 1  
Motion carried.**

**4.d. 2024-25 Board/District Goals & Measures of the System Adoption**

**MOTION: I move to approve the 2024-25 Board/District Goals & Measures of the System as presented. This motion, made by Kendell Ferguson and seconded by Jeff Kinsella, Passed.**

**Roll call vote:**

**Atkinson: Yea, Kinsella: Yea, Williams: Yea, Caballero: Yea, Ferguson: Yea, Wright: Yea, Messer: Absent**

**Yea: 6, Nay: 0, Absent: 1**

**Motion carried.**

**4.e. Postpone Science Instructional Materials Adoption**

**MOTION: I move to approve the postponement of the Science instructional materials adoption until spring of 2026. This motion, made by Jeff Kinsella and seconded by Kendell Ferguson, Passed.**

**Discussion:** A discussion took place regarding the benefit of teacher input, and keeping current with constant changes in science while aligning it with the standards.

**Roll call vote:**

**Kinsella: Yea, Williams: Yea, Atkinson: Yea, Caballero: Yea, Ferguson: Yea, Wright: Yea, Messer: Absent,**

**Yea: 6, Nay: 0, Absent: 1**

**Motion carried.**

**4.f. School Board Policies - *second reading***

**MOTION: I move to readopt the policies as presented in the September 19th policy packet. This motion, made by Jeff Kinsella and seconded by Kendell Ferguson, Passed.**

**Roll call vote:**

**Caballero: Yea, Kinsella: Yea, Atkinson: Yea, Ferguson: Yea, Williams: Yea, Wright: Yea, Messer: Absent**

**Yea: 6, Nay: 0, Absent: 1**

**Motion carried.**

**5. Consent Agenda**

**5.a. Staff Assignment Report**

**Hearing no objections, the consent agenda was approved by unanimous consent.**

**6. Board Reports**

Board Directors shared events they attended, which included visits to Roosevelt and Jackson Elementary Schools and participating in the ABLE Leadership Academy. Comments were put forth regarding the Oregon Department of Education visit that resulted in commendations for the district safety measures implemented; the Forbes list noting the Medford School District as a best place to work in Oregon; a great start to the school year (thanked teachers); appreciation for citizen comments shared; and a hope that the Board and community can work together and put the focus back on celebrating students.

**7. Announcements**

**7.a. October 3, 2024 - Work Session at 5:30 PM - Oakdale Middle School**

Chair Wright noted the upcoming work session scheduled for October 3, 2024.

**8. Adjournment**

There being no further business before the Board, the meeting was adjourned at 8:20 PM.

\_\_\_\_\_  
Chair of the District School Board  
Medford School District 549C

ATTEST:

\_\_\_\_\_  
Superintendent-Clerk