

CONTRACTS

As specified in law, the power to contract is invested in the Governing Board. However, the Board may, by a majority vote, delegate the power to enter into contracts on behalf of the District to the Superintendent or designee.

To be valid or to constitute an enforceable obligation against the District, all contracts must be approved and/or ratified by the Governing Board. (Education Code 17604)

(cf. 3300 - Expenditures/Expending Authority)
(cf. 3314 - Payment for Goods and Services)
(cf. 3400 - Management of District Assets/Accounts)

All contracts between the District and outside agencies shall conform to standards required by law and shall be prepared under the direction of the Superintendent or designee.

(cf. 2121 - Superintendent's Contract)
(cf. 4312.1 - Contracts)
(cf. 9124 - Attorney)

The District upholds state nondiscrimination laws. All contracts made by the District shall contain a nondiscrimination clause in accordance with law.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

The District shall not enter into a contract that prohibits a school employee from disparaging the goods or services of the contracting party. (Education Code 35182.5)

Contracts for Exclusive Sale or Advertising of Carbonated Beverages

The Board has determined that it is in the best interests of District students for the District to enter into a contract granting exclusive advertising or exclusive sale of carbonated beverages throughout the District to a person, business or corporation.

Prior to entering into the contract, the Board shall ensure that the District has sufficient internal controls in place to protect the integrity of public funds and to ensure that funds raised as a result of this contract benefit public education. (Education Code 35182.5)

The Superintendent or designee shall develop the District's internal control procedures to protect the integrity of public funds. Such internal controls may include, but not be limited to, the following:

CONTRACTS (continued)

1. Control procedures that produce accurate and reliable financial statements, and at the same time, safeguard the assets, financial resources and integrity of every employee responsible for handling money or property. Control systems shall be systematically evaluated and revised to keep pace with the changing responsibilities of management.

(cf. 3100 - Budget)

(cf. 3400 - Management of District Assets/Accounts)

(cf. 3460 - Financial Reports and Accountability)

1. Procedures to ensure that District personnel do not handle cash or product at the school site. The contract shall specify that the vendor stock the machines and shall provide cash accounting, along with a check, for District proceeds directly to the control office.

In addition, the contract may specify whether contractor logos are permitted on District facilities, including but not limited to, scoreboards and other equipment. If such logos are permitted, the contractor shall present the equipment to the Board as a gift. The gift may be accepted by the Board in accordance with Board policy and administrative regulations.

(cf. 3290 - Gifts, Grants and Bequests)

To ensure that funds raised by the contract benefit District schools and students:

1. The Superintendent or designee may form a committee consisting of parents/guardians, students, staff and interested community members to make recommendations regarding the contract, including recommendations as to how the funds will be spent in a manner that benefits public education.

(cf. 1220 - Citizen Advisory Committees)

2. Prior to ratifying the contract, the Board shall designate, at a public meeting, the specific programs and activities which will be funded by the proceeds of the contract and how the contract reflects the District's vision and goals.

(cf. 0000 - Vision)

(cf. 0100 - Philosophy)

(cf. 0200 - Goals for the School District)

3. The Superintendent or designee shall notify parents/guardians and students about the parameters of the contract and how funds raised by the contract will be used.

CONTRACTS (continued)

4. The contract shall specify that the contractor report, on a quarterly basis, to the Superintendent or designee the number of carbonated beverages sold within the District and the amount of money raised by the sales. The Superintendent or designee shall report these amounts to the Board on a quarterly basis.
5. The Superintendent or designee shall ensure that the contract does not limit the ability of student and parent organizations to plan and operate fund-raising activities.

(cf. 1230 - School-Connected Organizations)
(cf. 1321 - Solicitation of Funds from and by Students)
(cf. 3554 - Other Food Sales)

The Superintendent or designee shall ensure that students are offered a variety of alternative non-carbonated beverages, such as milk and juice, to drink while at school or at a school activity.

(cf. 3550 - Food Service/Child Nutrition Program)

The contract shall be entered into on a competitive bid basis pursuant to Public Contract Code 20111 or through the issuance of a Request for Proposal. (Education Code 35182.5)

(cf. 3311 - Bids)

Contracts for Electronic Products or Services

Prior to entering into a contract for electronic products or services that require the dissemination of advertising to students, the Board shall: (Education Code 35182.5)

1. Enter into the contract at a noticed, public hearing of the Board.

(cf. 9320 - Meetings and Notices)

2. Make a finding that the electronic product or service is or would be an integral component of the education of students.

(cf. 0440 - District Technology Plan)
(cf. 6162.7 - Use of Technology in Instruction)

3. Make a finding that the District cannot afford to provide the electronic product or service unless it contracts to permit dissemination of advertising to students.

(cf. 1325 - Advertising and Promotion)

CONTRACTS (continued)

4. Provide written notice to parents/guardians that the advertising will be used in the classroom or other learning center. This notice shall be part of the District's normal, ongoing communication to parents/guardians.

(cf. 5145.6 - Parental Notifications)

5. Offer parents/guardians the opportunity to request in writing that their child not be exposed to the program that contains the advertising. Any request shall be honored for the school year in which it is submitted, or longer if specified, but may be withdrawn by the parents/guardians at any time.

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex

14505 Provisions required in contracts for audits

17595-17606 Contracts

35182.5 Contract prohibitions

45103.5 Contracts for management consulting service related to food service

CODE OF CIVIL PROCEDURE

685.010 Rate of interest

GOVERNMENT CODE

12990 Nondiscrimination and compliance employment programs

53260 Contract provision re maximum cash settlement

53262 Ratification of contracts with administrative officers

LABOR CODE

1775 Penalties for violations

1810-1813 Working hours

PUBLIC CONTRACT CODE

4100-4114 Subletting and subcontracting fair practices

7104 Contracts for excavations; discovery of hazardous waste

7106 Noncollusion affidavit

20111 Contracts over \$50,000; contracts for construction; award to lowest responsible bidder

20104.50 Construction Progress Payments

22300 Performance retentions

UNITED STATES CODE, TITLE 20

1681-1688 Title IX, discrimination

Management Resources:

WEB SITES

CASBO: <http://www.casbo.org>

Policy
adopted: April 18, 1990
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MURRIETA VALLEY USD
Murrieta, California