

CAA (LOCAL) – FISCAL MANAGEMENT GOALS AND OBJECTIVES: FINANCIAL ETHICS

New language has been added to this policy to define “*Code of Silence*” in accordance with the *Board of Education Financial Ethics on Request for Proposal (RFP)* or contract extension involving public procurement solicitations for goods/services – vendor relationships/conflicts of interest. This revision aligns the district’s policy with *Education Code, Sec. 44.031. Purchasing Contracts*. Additional revisions to clarify “*Fraud and Financial Impropriety*” were made.

Annotated version of the (LOCAL) Policy is included – to show you the suggested additions (blue) and deletions (~~red~~) to the existing (LOCAL) policy.

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All Trustees, employees, vendors, contractors, agents, consultants, volunteers, and any other parties who are involved in the District's financial transactions shall act with integrity and diligence in duties involving the District's fiscal resources.

Note: See the following policies and/or administrative regulations regarding conflicts of interest, ethics, and financial oversight:

- Code of ethics:
 - for Board members—BBF
 - for employees—DH
- Financial conflicts of interest:
 - for public officials—BBFA
 - for all employees—DBD
 - for vendors—CHE
- Compliance with state and federal grant and award requirements: CB, CBB
- Financial conflicts and gifts and gratuities regarding federal funds: CB, CBB
- Systems for monitoring the District's investment program: CDA
- Budget planning and evaluation: CE
- Compliance with accounting regulations: CFC
- Activity fund management: CFD
- Criminal history record information for employees: DBAA, DC
- Disciplinary action for fraud by employees: DCD, DCE, and DF series

**Fraud and Financial
Impropriety**

The District is committed to the highest standards of ethical behavior. Concern about any instance of unethical behavior reported by any source shall be taken seriously and properly investigated.

The District recognizes the importance of protecting the organization, its operations, employees, and assets against financial risks, operational breaches, and unethical activities. Therefore, the Board and administration shall institute and clearly communicate this financial ethics policy to District employees, internal and external customers, vendors, and business partners.

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The District prohibits fraud and financial impropriety, as defined below, in the actions of its Trustees, employees, vendors, contractors, agents, consultants, volunteers, and others seeking or maintaining a business relationship with the District.

Definition

~~Fraud is defined as an intentional deception, misappropriation of resources, or the manipulation of data to the advantage or disadvantage of a person or entity. Corruption is a form of financial impropriety defined as the offering, giving, soliciting, or accepting of an inducement or reward that may improperly influence the action of a person or entity.~~ Fraud and financial impropriety shall include but not be limited to:

1. Forgery or unauthorized alteration of any document or account belonging to the District.
2. Forgery or unauthorized alteration of a check, bank draft, or any other financial document.
3. Misappropriation of funds, securities, supplies, or other District assets, including employee time.
4. Impropriety in the handling of money or reporting of District financial transactions.
5. Profiteering as a result of insider knowledge of District information or activities.
6. Unauthorized disclosure of confidential or proprietary information to outside parties.
7. Unauthorized disclosure of investment activities engaged in or contemplated by the District.
8. Accepting or seeking anything of material value from contractors, vendors, or other persons providing services or materials to the District, except as otherwise permitted by law or District policy. [See CB, DBD]
9. Inappropriately destroying, removing, or using records, furniture, fixtures, or equipment.
10. Failure to provide financial records required by federal, state, or local entities.
11. Failure to disclose conflicts of interest as required by law or District policy.
12. Any other dishonest act regarding the finances of the District.

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13. Failure to comply with requirements imposed by law, the awarding agency, or a pass-through entity for state and federal awards.

~~14. Knowingly providing false information on job applications or requests for funding.~~

~~15. Wrongdoing.~~

~~16. Intentional misstatement.~~

~~17. Bribery.~~

~~18. Conspiracy.~~

~~19. Extortion.~~

**Reviewing the
Financial Ethics
Policy**

Each employee shall annually review the financial ethics policy and the responsibility of each employee to report financial conflicts of interest and any suspicion of fraud or financial impropriety in accordance with this policy, BBFA, DBD, and DH. Each employee shall annually sign a form from the employee handbook indicating that the employee understands the District's financial ethics policy.

During the meeting at which the Board conducts its annual review of the District's investment program, the Superintendent or designee shall review the code of ethics for Board members [see BBF] and legal provisions addressing financial conflicts of interest for Board members [see BBFA].

**Financial Controls
and Oversight**

Each employee who supervises or prepares District financial reports or transactions shall set an example of honest and ethical behavior and shall actively monitor his or her area of responsibility for fraud and financial impropriety.

Fraud Prevention

The Superintendent or designee shall maintain a system of internal controls to deter and monitor for fraud or financial impropriety in the District.

As part of the annual audit process, controls on the Superintendent's office shall be reviewed by the Board's auditor.

Each department supervisor and campus principal shall monitor his or her area of responsibility for any indication of fraud or financial impropriety.

All new employees, including temporary and contract employees, are subject to background investigations including a criminal background check. The District shall also attempt to verify all applicants' employment history, education, and personal references prior to making an offer of employment. [See DC]

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All vendors, contractors, and suppliers shall be in good standing and authorized to transact business in the state of Texas. Vendors, contractors, and suppliers are subject to screening, including verification of the individual's or company's status.

Contractual agreements with the District shall contain a provision prohibiting fraudulent acts and shall include information about reporting fraud or corruption.

Reports

Any person, including an employee, supervisor, administrator, vendor, or community member, who suspects fraud or financial impropriety in the District shall report the suspicions immediately to a person with authority to investigate the suspicions, including any supervisor, the Superintendent or designee, the Board President, or local law enforcement.

Reports of suspected fraud or financial impropriety shall be treated as confidential to the extent permitted by law. Limited disclosure may be necessary to complete a full investigation or to comply with law. All employees involved in an investigation shall be advised to keep information about the investigation confidential.

*Protection from
Retaliation*

Neither the Board nor any District employee shall unlawfully retaliate against a person who in good faith reports perceived fraud or financial impropriety. [See DG]

Retaliation or retribution against any employee, supervisor, manager, or officer who reports suspected fraudulent or corrupt activities shall not be tolerated. However, if an employee is determined to have acted maliciously or with deceit, the employee shall be subject to disciplinary action.

Fraud Investigations

In coordination with legal counsel and other internal or external departments or agencies, as appropriate, the Superintendent, Board President, or a designee shall promptly investigate reports of potential fraud or financial impropriety.

Response

If an investigation substantiates a report of fraud or financial impropriety, the Superintendent or designee shall promptly inform the Board and any appropriate personnel of the report, the investigation, and any responsive action taken or recommended by the administration.

If an employee, other than the Superintendent, is found to have committed fraud or financial impropriety, the Superintendent or designee shall take or recommend appropriate disciplinary action, ~~which may include termination of employment~~ in accordance with state law and board policy.

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If the Superintendent is found to have committed fraud or financial impropriety, the Board shall take or recommend appropriate disciplinary action, which may include termination of employment.

If a contractor or vendor is found to have committed fraud or financial impropriety, the District shall take appropriate action, which may include cancellation of the District's relationship with the contractor or vendor.

When circumstances warrant, the Board, Superintendent, or designee may refer matters to appropriate law enforcement or regulatory authorities. In cases involving monetary loss to the District, the District may seek to recover lost or misappropriated funds.

The final disposition of the matter and any decision to file a criminal complaint or to refer the matter to the appropriate law enforcement or regulatory agency for independent investigation shall be made in consultation with legal counsel.

Federal Awards
Disclosure

The District shall disclose, in a timely manner in writing to the federal awarding agency or pass-through entity, all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting a federal grant award. [See CBB]

Analysis of Fraud

After any investigation substantiates a report of fraud or financial impropriety, the Superintendent or designee shall appoint a team to analyze conditions or factors that may have contributed to the fraudulent or improper activity. The Superintendent or designee shall ensure that appropriate administrative procedures are developed and implemented to prevent future misconduct. These measures shall be presented to the Board for review.

CODE OF SILENCE

PURPOSE
VENDOR
RELATIONSHIPS
-CONFLICTS OF
INTEREST

The District shall implement a Code of Silence to enforce its commitment to ethical contracting standards and improve accountability and public confidence.

It is important to avoid both the appearance of conflicts and actual conflicts of interest. The implication from the appearance of a conflict of interest is just as important as the implication from a real conflict. If an outside independent party might question the intent of a transaction or relationship, such transaction or relationship is deemed to impact the appearance of a conflict and therefore, should be avoided. Circumstances related to an appearance of conflict include those that would cause a reasonable and informed third party, having knowledge of the relevant information, to reasonably conclude that a Board member or administrator has compromised objectivity related to a vendor relationship. [See BBFA]

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For purposes of this policy, “vendor’s representative” shall mean an employee, partner, director, Board member or officer of a potential vendor or consultant, lobbyist, actual or potential subcontractor of a vendor, or any other individual or for-profit or nonprofit organization acting through or on behalf of any person seeking an award or on behalf of a group of interested individuals or members.

PROCUREMENT
METHODS

Texas Education Code Section 44.031 allows for the purchase of goods and services through one of the following methods:

- Competitive bidding for services other than construction services;
- Competitive sealed proposals for services other than construction services;
- A request for proposals for services other than construction services or a method provided by Government Code Chapter 2269 for construction services; or
- Any other procurement method authorized by state law.

The Code of Silence period applies to the acquisition of goods or services using the procurement methods identified above as well as renewal periods for contracts previously awarded by the Board of Trustees with multiple one-year renewal options.

APPLICABILITY

“Code of Silence” shall mean a prohibition on any communication regarding any request for proposal, bid, or other competitive solicitation (as defined in the procurement methods above) between:

1. Any person who seeks an award from the District or its affiliated entities (including, but not limited to, the Spring Branch Education Foundation, including a potential vendor or vendor’s representative; and
2. A Board member, the Superintendent, senior staff member, principal, department head, director, manager, or other District representative who has influence in the evaluation or selection process.

Furthermore, campaign contributions, gifts, donations, and any other items of value are prohibited between the parties defined above for any known contract under consideration during the Code of Silence period. Also, candidates who have filed for election to the Board of Trustees are subject to these limitations after the date on which the candidate has filed for office.

EXCEPTION

Nothing contained in this policy shall prohibit any potential vendor or vendor’s representative from:

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1. Making public representations at scheduled pre-bid conferences or scheduled selection and negotiation committee meetings;
2. Engaging in contract negotiations during any scheduled meeting;
3. Making a public presentation to the Board during any duly noticed public meeting; or
4. Conducting business on contracts previously executed and currently in force.

The potential vendor or vendor's representative shall send all written communication directly to the designated purchasing representative.

Nothing in this policy shall prohibit the Purchasing Department's representative from initiating a contact with a potential vendor or vendor's representative and subsequent communication related thereto for the purposes of obtaining further clarifying information regarding a response to a request for proposal, bid, or competitive solicitation. Such contact shall be in writing and shall be provided to the members of the applicable Procurement/Evaluation Committee, including any response thereto.

The Code of Silence shall not apply to communication with the District's legal counsel, Director of Purchasing, and purchasing staff. Such communications shall be limited to the purpose of obtaining clarification or information concerning the subject solicitation. An exception also applies to other specific members of the Board of Trustees for the purposes of the selection of external auditors or the Board's legal counsel, and any other specific circumstances approved by the Board of Trustees.

TIME PERIOD

The Code of Silence time period shall begin 30 days before the issuance of a competitive sealed proposal, request for proposal, bid, or other competitive solicitation (as defined under Procurement Method, above) and will officially end when the contract is awarded by the Board of Trustees. An e-mail notification shall be sent to District Administrators, or other District representative who has influence in the evaluation or selection process for each competitive sealed proposal, request for proposal, bid, renewal, or other competitive solicitation. The purchasing department shall also provide public notice on the district's website at the same time the e-mail notification is sent.

Regardless of the above time period, it is not acceptable for a potential vendor to participate in determining the scope of work,

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strategic direction, technical specifications, or evaluation criteria of such projects.

VIOLATION

Any suspected violation of this policy shall be investigated by the District's police department, legal counsel, human resources department, and/or a contracted outside law firm and may result in the District deeming as void or voidable:

1. Any recommendation for award;
2. Any RFP, bid, or other competitive solicitation award;
3. Any bid award to the potential vendor or the vendor's representative; and
4. Any vendor's contract deemed void or voidable.

The potential vendor or vendor's representative determined to have violated this rule shall be subject to debarment from bidding and contracting activities of current and future projects for a period up to two calendar years (24 months). In addition to any other penalty provided by law, violation of this rule by a District employee shall subject the employee to disciplinary action up to and including dismissal. Board members and candidates who have filed for election to the Board; who have violated the Code of Silence; and/or who have received campaign contributions, gifts, donations, or any other items of value from such vendor's representatives during the Code of Silence shall abstain from voting on such matters for a period up to two calendar years (24 months).

In the event that a Board member or candidate unknowingly accepts a campaign contribution, gift, donation, or any other item of value from a vendor's representative during the Code of Silence, the Board member or candidate shall return the contribution within ten days after becoming aware of the conflict with this policy.

FORMAL
COMPLAINTS

This policy is not intended to prohibit contractors and their representatives from issuing formal complaints or concerns about potential conflicts of interest during the Code of Silence. Such concerns, and reports of a suspected violation should be communicated to the executive director of human resources, District police department, District's legal counsel or designee.

EFFECTIVE DATE

This policy shall be effective as of the adoption date.