

**Global Executive Constraint**

**Policy 3.0**

To: Board of Education

From: Dr. Chris Fiedler, Superintendent of Schools

Re: Internal Report on the Expectations of the Board – 3.0 Global Executive Constraint I hereby present my report on the Expectations of the Board through our Global Executive Constraint, 3.0 in accordance with the monitoring schedule as set forth in Board policy. I certify the information in this report is true.

Signed: 

Date: August 25, 2020

Superintendent, School District

## 27J SCHOOL DISTRICT 27J

### GOVERNING POLICY OF THE BOARD OF EDUCATION

#### Policy 3.0 – GLOBAL EXECUTIVE CONSTRAINT

*Date Adopted/Last Revised: January 27, 2009 - Executive Limitations*

The Superintendent will not cause or allow any practice, activity, decision or organizational circumstance that is unlawful, imprudent, or in violation of commonly accepted business and professional ethics and practices.

*I interpreted "unlawful" to mean:*

*any practice, activity, decision, or organizational circumstance (hereafter, "unlawful situation") which is determined to be contrary to applicable law by an agency of the state of Colorado or the United States, or by court of law. Other unlawful situations are those about which the Superintendent or other executive leadership team members know or should have known and which are likely to be found contrary to clearly established law applicable in the state of Colorado, including but not limited to the delegation of legal responsibilities of the Board of Education to the Superintendent in a manner contrary to law.*

*I interpret "imprudent" to mean:*

*any situation which violates executive limitations, any ongoing violation of Superintendent Policy, or any failure to adopt any policy required by law or governmental regulation.*

*I interpret "commonly accepted business and professional ethics and practices" to mean:*

*1.) Operating limitations as established by board policy*

*2.) Conduct standards that address the following topics:*

- ethics, conflicts of interest, and nepotism policies which include substantive standards commonly found in policies/procedures adopted by other Colorado school districts*
- bidding/procurement procedures which include substantive standards commonly found in policies/procedures adopted by other Colorado school districts*
- internal controls for processing financial transactions which include substantive standards that reflects sound accounting practices as determined by the School District 27J independent auditors*

*• business functions within my operational span of control, but to exclude governance, other than advising the Board if I became aware of the Board's noncompliance with its own policies*

## **PART I – LEGAL**

### **Data Reported:**

#### Unlawful:

Ongoing

There are two pending matters concerning a former student at Brighton High School. In the first matter, parent filed an IDEA due process complaint with CDE alleging that the district failed to timely evaluate and develop an Individualized Education Program (IEP). In September 2019, the district prevailed at hearing on all issues. Parent has appealed to the U.S. District Court in Colorado and the matter is fully briefed. Though a ruling on the appeal is not expected for another year, we anticipate the court will affirm the decision in favor of the district. In the second matter, the parent filed a civil lawsuit alleging the district and several employees were deliberately indifferent to student's claims of harassment by other students after she reported an off-campus sexual assault by another student. The court dismissed all claims against the individual employees, except for an assistant principal. Discovery ends in November 2020, after which the district will move for summary judgment. The costs of legal defense and any judgment if the case goes to trial is covered by the district's insurance.

During the 2019-2020 reporting period

September 27, 2019, a district bus transporting eight students and a bus aide was involved in a single vehicle accident en route to Prairie View High School. On August 3, 2020, the bus driver pled guilty to careless driving. The district received one Notice of Claim for one student within the 182-day deadline per the Colorado Governmental Immunity Act. There has been no settlement demand on behalf of the student and suit has not been filed. We anticipate we will be contacted by the family's counsel to pursue settlement. Any settlement or litigation will be covered by the district's insurance policy.

In June 2020, parent of a student at Overland Trail Middle School filed an IDEA due process complaint with CDE, alleging that the student's IEP was insufficient to meet his educational needs. The matter is scheduled for a hearing December 1-4, 2020.

In June 2020, parent of a student at Prairie View High School filed a due process complaint with CDE, alleging that the student's IEP was insufficient to meet his educational needs. The matter will be scheduled for a hearing. In June 2020, the parent also submitted a complaint of

discrimination to the U.S. Department of Education's Office for Civil Rights. The district has not been notified that OCR has accepted the complaint for investigation.

In February 2019, a volunteer assigned to the Brighton High School concession stand slipped and fell on ice in the parking lot. We provided a liability analysis of the claim, concluding the district has a strong defense under the Colorado Governmental Immunity Act. The district's insurance carrier denied the claim and we are unaware of any further communications from the volunteer's counsel.

On March 13, 2020, the parents of a student at Quist Middle School submitted a Notice of Claim to the district alleging student, who was being transported home from school by bus late September 2019, sustained serious injuries as a result of the bus driver's negligence. On March 16, 2020, we advised the district to notify its insurance carrier. On March 24, 2020, we issued a litigation hold memorandum to ensure the district preserves all available evidence. We are unaware of any further action on this matter.

**Conclusion: I report compliance.**

Imprudent:

Operational guidelines are outlined in Superintendent Policies, driven by executive limitations, and district staff is required to adhere to those directives. As with any organization, there are also provisions to guard against individual choices that are detrimental to the school district.

At the beginning of each academic year mandatory training of administrators and supervisors related to the prevention, investigation and remediation of unacceptable employee conduct is provided and in place for all schools and District departments. This annual training will be completed by September 30, 2020.

The district is subject to audit by federal and state agencies, and engages its own audit firms to provide information that will assist areas of the district in making changes to better serve their internal and external customers while also remaining compliant. In accordance with Government Finance Officers Association (GFOA) best practices, we also persist in our internal audit efforts to ensure district entities are following state and federal laws as well as district policies and regulations. If schools or non-school sites are found to be non-compliant, appropriate action is taken, including further training of site personnel in proper procedures.

Members of our team ensure compliance with the ever changing and growing list of statutory requirements that come with each new legislative session. Examples, i.e, not a complete list, of requirements fulfilled by each department are listed below.

Student Achievement:

School Year/School Calendar/Instructional Time

Title IX Sexual Harassment Grievance Process

Title IX Complaint Form

Therapy Dogs

School Closings and Cancellations

Off Campus Behavior

Transport of a Student in an Emergency

State Assessments

School and District Unified Improvement Plans

Title I Parent Notification

Count of Students with Disabilities

Gifted and Talented Plan Submission

Career and Technical Education Expenditures

Student Individual Education Plans

Finance:

Financial Transparency Requirements

Assessing Charter School Overhead, Direct, and Purchased Service Costs

Annual Budget Preparation and Presentation

Cooperation with External Auditors

Facilitating and Monitoring Accounts Payable, Receivable, and Payroll

Operations:

Food Allergy Policy Implementation/Update

Public School Transportation Fund Reimbursement

2015 Bond Expenditures

Capital Construction Expenditures

Human Resources:

Teacher and Principal Evaluation

Non-Renewal Notices

Hiring Protocols

Office of the Superintendent:

Public Officials Honoraria Reporting

Election Requirements

Intergovernmental Agreements

Board Expectations Reports

Legal:

Student Handbook/FERPA updates

Superintendent Policies

Charter School Liaison

Contracts

During this reporting period there have been no claims filed against, or settled by, our errors and omission insurance coverage that is provided for members of the organization including the Board of Education for incidents of imprudence.

#### Workers' Compensation

Year	Med Only Count	Temp Disability/Other Count	Total Claim Count	Sum of Total Incurred Cost	Average Cost Per Claim	Student Count	Cost Per Student	Employee Count	Cost Per Employee
2006-07	51	7	58	\$367,582	\$6,337.62	9926	\$0.64	1275	\$4.97
2007-08	66	6	72	\$210,335	\$2,921.32	11689	\$0.25	1308	\$2.23
2008-09	67	3	70	\$127,528	\$1,821.83	11685	\$0.16	1363	\$1.34
2009-10	62	13	75	\$427,025	\$5,693.67	12219	\$0.47	1436	\$3.96
2010-11	44	13	57	\$211,533	\$3,711.11	12546	\$0.30	1320	\$2.81
2011-12	69	9	78	\$640,234	\$8,208.13	11644	\$0.70	1319	\$6.22
2012-13	54	8	62	\$276,846	\$4,465.26	15034	\$0.30	1501	\$2.97
2013-14	71	5	76	\$198,023	\$2,605.57	16786	\$0.16	1393	\$1.87
2014-15	70	5	75	\$229,349	\$3,057.99	17004	\$0.18	1497	\$2.04
2015-16	65	9	74	\$304,538	\$4,115.38	16791	\$0.25	1867	\$2.20
2016-17	58	15	73	\$592,581	\$8,117.55	16526	\$0.49	1972	\$4.12
2017-18	73	14	87	\$278,127	\$3,196.86	17187	\$0.19	1832	\$1.75
2018-19	75	17	92	\$682,403	\$7,417.43	18733	\$0.40	1891	\$3.92
2019-20	73	14	87	\$759,818	\$8,733.54	18963	\$0.46	1974	\$4.42

Property and Liability

Year	Employee Count	Student Count	Claims Count	Total Incurred	Average Liability Cost Per Claim Per Student	Average Liability Cost Per Employee	Average Cost Per Claim
2006-07	1275	9926	31	\$110,000	\$11.08	\$86.27	\$3,548.39
2007-08	1308	11689	19	\$226,364	\$19.37	\$173.06	\$11,913.89
2008-09	1363	11685	12	\$95,536	\$8.18	\$70.09	\$7,961.33
2009-10	1436	12219	30	\$258,397	\$21.15	\$179.94	\$8,613.23
2010-11	1320	12546	24	\$30,174	\$2.41	\$22.86	\$1,257.25
2011-12	1319	11644	12	\$14,658	\$1.26	\$11.11	\$1,221.50
2012-13	1501	15034	14	\$43,615	\$2.90	\$29.06	\$3,115.36
2013-14	1393	16786	17	\$36,572	\$2.18	\$26.25	\$2,151.29
2014-15	1497	17004	24	\$170,095	\$10.00	\$114	\$7,087.29
2015-16	1867	16791	21	\$72,871	\$4.34	\$39.03	\$3,470.06
2016-17	1972	16795	20	\$59,865	\$3.56	\$30.36	\$2,993.25
2017-18	1832	17187	23	\$267,627	\$15.57	\$146.08	\$11,635.96
2018-19	1891	18733	26	\$325,723	\$17.39	\$172.25	\$12,527.81
2019-20	1974	18963	40	\$562,015	\$29.64	\$284.71	\$14,050.38



The District received the following letter from the Rocky Mountain Risk Group referencing our ongoing commitment to training and safety.

Rocky Mountain Risk  
August 19, 2020

Andy Pippin  
18551 East 160th Avenue  
Brighton, Co 80601

Dear Andy,

Rocky Mountain Risk provides both online training and on-site scenario-based safety training for your employees. The classes completed for FY 2019–2020 are listed below:

Accident Investigation	3
Active Shooter	3
Adams County Boardman Ship Basics	2
Adams County Crisis Response	155
Asbestos Awareness	2
Back Injury and Lifting	126
Bloodborne Pathogen Exposure Prevention	121
Browser Security Basics	3
Bully Recognition and Response	1
Bus Behavior and Discipline	2
Child Abuse Identification and Intervention	2
Chemical Spills	1
Civil Rights in Food Service	8
Communication Styles and Skills	1
Conflict Management Parent	1
Conflict Management Staff	1
Conflict Management Student	2
Coronavirus Awareness	14
Coronavirus: CDC Guidelines	13
Coronavirus: Cleaning/Disinfecting Workplace	8
Coronavirus: Managing Stress and Anxiety	8
Coronavirus: Preparing Your Household	9
Coronavirus: Reopening Your Organization	2
Coronavirus: Transitioning to Remote Work	9
Crisis Response and Recovery	40
De-escalation Strategies	2
Diversity Awareness Staff to Student	1
Electrical Safety	3
Energy Conservation	1

Food Safety and Kitchen Sanitation	7
Food Service Equipment: Safe Use	7
Food Service Equipment: Sanitation	6
Foodborne Illness	7
Safeschools Alert	2
Hazard Analysis	6
Hazard Communication	116
Ladder Safety	7
Nutrition Basics	7
Playground Supervision	1
Safety Data Sheets	10
School Meal Compliance	8
Sexual Harassment Prevention	1
Slips and Falls Prevention	118
Special Education Aides: Safety	1
Special Ed. (Lifts and Transfers)	1
Special Ed. (Safety in the Classroom)	1
Sport Supervisory	3
Student Mental Health	1
Threat Assessment	2
Workplace Injury Prevention	2
Total	879

Sincerely,

Mike Sowder  
 Director Risk Management, Safety and Environmental Health

**Conclusion: I report compliance.**

## **PART II–FINDINGS RELATED TO FINANCIAL STATEMENTS**

Commonly Accepted Business and Professional Ethics and Practices:

- 1) Operating limitations as established by board policy
- 2) Conduct standards that address the following topics:
  - ethics, conflicts of interest, and nepotism policies which include substantive standards commonly found in policies/procedures adopted by other Colorado school districts
  - bidding/procurement procedures which include substantive standards commonly found in policies/procedures adopted by other Colorado school districts
  - internal controls for processing financial transactions which include substantive standards that reflects sound accounting practices as determined by the School District 27J independent auditors
  - business functions within my operational span of control, but to exclude governance, other than advising the Board if I became aware of the Board’s noncompliance with its own policies

### **Data Reported:**

Since the adoption of Policy Governance® (January 27, 2009), numerous expectation reports have been submitted by the Superintendent of Schools to the Board of Education. Each report has been found to be transparent and, when appropriate, contained self-reported incidents of noncompliance.

It is noteworthy that in a few instances the Board of Education found the report to be reasonable and merited Board approval even though the superintendent, through internal staff, self-reported isolated instances of noncompliance.

Superintendent policies specifically dealing with ethics, conflicts of interest, and nepotism can be found in section “G” when dealing with staff members, in section “J” when dealing with students and in section “I” when dealing with the curriculum. These Superintendent policies can be found on the school district website, in hard copies in the office of the superintendent, via request from the secretary of the Board of Education as well as on Google Drive for employee access.

During the reporting period there have been no instances to report of Board violations of governance policies as required of me in Board Members’ Code of Conduct 2.F(7). Superintendent’s Policy addressing Staff Ethics, Conflicts of Interest, and Nepotism mirror the provisions commonly found in parallel policies adopted in the Aurora, Cherry Creek, Douglas

County and Jefferson County school districts and those recommended by the Colorado Association of School Boards (CASB).

When appropriate, the School District 27J Department of Financial Services identifies and brings to the attention of the Superintendent items that may be contrary to commonly accepted business practices and professional ethics.

The District's independent auditors reviewed the District's internal procedures concerning internal controls for financial transactions during the monitoring period. These reviews found that these existing policies include the provisions commonly found in policies/procedures adopted by other Colorado school districts, and that the internal controls in place in the finance department reflect sound accounting practices as determined by the District's independent auditor.

The District's independent auditors identified no deficiencies in the FY2018-2019 financial audit.

Fiscal Health: The Colorado State Auditor has a Fiscal Health Program that was developed to assist local governments and school districts with identifying financial warning signs. The most recently released Fiscal Health Analysis of Colorado School Districts analyzed the three-year period of fiscal years 2016 through 2018.

That report was presented to the Legislative Audit Committee in July 2019. Through communication with the Colorado Department of Education's Office of School Finance, the District was not cited in the Fiscal Health Analysis and was not asked to respond in respect to ratios or indicators for the FY2017-2018.

Financial Accreditation: On July 10, 2020 the District was mailed a letter from the Colorado Department of Education (CDE) noting that the FY2018-2019 data pipeline submission and audit were accepted by CDE. CDE communicated the following concerns related to state statutes and data submission during their review:

- Pupil Activity Fund Balance reported
- Federal regulations pertaining to multiple bond offerings reported
- Provisions of the Public School Financial Transparency Act
- Some financial issues noted at the District's charter schools

All concerns were addressed and resolved during the review process. In addition, there were no findings or other issues noted during their review of federal funds provided through CDE. No formal response was required by CDE.

### **PART III – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS**

The auditors presented no finding information in the FY2018-2019 A-133 audit which was presented to the Board of Education at the December 10th, 2019 meeting.

**Conclusion: I report compliance.**