

## 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 24, 2021

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 and two pending bus matters. The first from the September 27, 2019 bus accident and the second from the parents of a Quist Middle School student.

- In the first matter regarding the former Brighton High School student, 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. A ruling on the appeal is expected any time, and we anticipate the court will affirm the decision in favor of the district.
- In the second matter regarding the former Brighton High School student, 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. The district moved for summary judgment, and we await the court's ruling. In the meantime, the court recently issued an order setting the case for a 5-day jury trial to begin on July 11, 2022. The fact that the case is now set for trial should not be taken as an indicator of how the judge may rule on the pending summary judgement motion. The costs of legal defense and any judgment if the case goes to trial is covered by the district's insurance.
- In the matter involving the September 27, 2019, bus accident, 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. The parties have agreed to the material terms of a

settlement and are finalizing a settlement agreement. The settlement will be covered by the district's insurance policy.

- 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.

In December 2020, we informed the family's attorney that the District and its insurer were denying the claim. Although the family's attorney indicated that suit would be filed, we are unaware of any further action on this matter.

During the 2020-2021 reporting period

- On September 20, 2020, the District received notice of an EEOC charge of discrimination filed by a former school counselor alleging claims of disability discrimination and retaliation in connection with her requests for workplace accommodations and the nonrenewal of her employment contract.

On October 23, 2020, the District submitted its response, and on April 9, 2021, the District provided supplemental information requested by the EEOC. We have not received any additional contact from the EEOC to date.

On October 2, 2020, the District also received notice from the U.S. Department of Labor of a complaint filed by the former school counselor alleging the nonrenewal of her employment also was in retaliation for her request to use Family and Medical Leave Act leave.

We responded to the Department of Labor complaint in October 2020. The DOL investigator was unable to substantiate the former school counselor's allegations, resulting in closure of the complaint in December 2020.

- On June 14, 2021, the District received notice of a complaint filed with the U.S. Department of Education, Office for Civil Rights (OCR) by the parents of a 27J student. The complaint alleged the District engaged in disability discrimination by refusing to allow the student to choice enroll into the District's Online Academy.

On June 28, 2021, we submitted a response to OCR and have had no further communication from OCR.

- On July 26, 2021, the District received a special education Due Process Complaint filed by the parents of a 27J student. The complaint alleged the District changed the student's educational placement without following the applicable rules and regulations. The parties

resolved the issue prior to the District filing a response, and parents dismissed the complaint.

- On August 13, 2021, the District received notice of a complaint filed with OCR by the parents of a Foundation Academy student alleging disability discrimination relating to special education services provided by Foundations Academy during the 2020-2021 school year.

We will submit a response on the District's behalf on or before September 10, 2021. The student is enrolled in Pennock Elementary for the 2021-2022 school year.

**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. Annual trainings were held and/or made available beginning the week of July 19, 2021.

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

COVID Protocols/27J Layers of Protection

PPE Use

Cleaning Protocols

Temperature Screenings

Quarantine Protocols

Cohorting

Physical Distancing

Hand Washing Protocols

At Home Health Screening

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
2020-21	54	15	69	\$281,431	\$4,078.71	18655	\$0.22	2177	\$1.87



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
2020-21	2177	18655	26	\$114,043	\$6.11	\$52.39	\$4,386.27

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

## Rocky Mountain Risk

July 19, 2021

Andy Pippin  
18551 East 160<sup>th</sup> 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 2020–2021 are listed below:

Accident Investigation	5
Active Shooter	4
ADA Title 2	4
Adams County Boardman Ship Basics	7
Adams County Crisis Response	346
AED	3
Asbestos Awareness	87
Back Injury and Lifting	305
Bedbugs in Schools	5
Bloodborne Pathogen Exposure Prevention	333
Bully Recognition and Response	123
Bus Behavior and Discipline	3
CPR	24
Child Abuse Identification and Intervention	4
Chemical Spills	1
Communication Styles and Skills	2
Conflict Management Parent	121
Conflict Management Staff	2
Conflict Management Student	4
Copper theft awareness	2
Coronavirus Awareness	14
Coronavirus: CDC Guidelines	13
Coronavirus: Cleaning/Disinfecting Workplace	6
Coronavirus: Face Coverings	9
Coronavirus: Managing Stress and Anxiety	8

Coronavirus: Preparing Your Household	7
Coronavirus: Reopening Your Organization	7
Coronavirus: Transitioning to Remote Work	6
Crisis Response and Recovery	19
Cultural Competence and Racial Bias	63
De-escalation Strategies	2
Diversity Awareness	56
Electrical Safety	96
Emergency Operations	9
Energy Conservation	1
First Aid	8
Food Safety and Kitchen Sanitation	2
Food Service Equipment: Safe Use	1
Food Service Equipment: Sanitation	1
Foodborne Illness	1
Hand and Power Tool Safety	13
Hazard Communication	55
Head Lice	3
Health Emergencies	12
Ladder Safety	38
Medication Administration	4
Nutrition Basics	1
Online Safety	7
Personal Protective Equipment	12
Safety Data Sheets	10
School Violence/Intruders	6
Scissor Lift Safety	14
Sexual Harassment Prevention	15
Slips and Falls Prevention	311
Special Education Aides: Safety	6
Special Ed. (Lifts and Transfers)	1
Special Ed. (Safety in the Classroom)	5
Sport Supervisory	3
Student Mental Health	22
Title IX	1423
Title VI	26
Visual weapons Screenings	2
Workplace Injury Prevention	22
Youth Suicide Awareness and Prevention	3
<b>Total</b>	<b>3,722</b>

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 FY2019-2020 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 2017 through 2019.

That report was presented to the Legislative Audit Committee in July 2020. 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 FY2018-2019.

Financial Accreditation:

On May 3, 2021 the District was mailed a letter from the Colorado Department of Education (CDE) noting that the FY2019-2020 data pipeline submission and audit were accepted by CDE.

There were no findings reported that related to funding provided by CDE, nor were any other issues noted during this review.

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

The auditors presented no finding information in the FY2019-2020 A-133 audit which was presented to the Board of Education at the December 8th, 2020 meeting.

**Conclusion: I report compliance.**