

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 23, 2022

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 is one pending and one resolved matter 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. 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, 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. First, the court dismissed all claims against the individual employees, except for an assistant principal. The District then moved for summary judgment, and in September 2021 the court granted summary judgment in favor of the District and assistant principal. The District agreed not to seek costs in exchange for the student's agreement not to appeal to the 10th Circuit. Costs of legal defense and any judgment if the case goes to trial is covered by the District's insurance.
- 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 August 2021, suit was filed; and in March 2022 this matter was settled and the court action dismissed.
- On September 20, 2020, the District received notice of an EEOC charge of discrimination filed by 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 been working with the District's insurer to defend the claims. The EEOC issued a Right to Sue Notice dismissing the charge without a determination and providing the former school

counselor up until July 14, 2022 to file a federal lawsuit, but she failed to file a lawsuit. Since the original EEOC charge was dual-filed with the Colorado Civil Rights Division, now we are waiting for the CCRD to issue its right to sue notice. CCMSI is supporting the District on this claim.

- 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 middle school student. The complaint alleged the District engaged in disability discrimination by refusing to allow the student to choose enroll into the District's Online Academy. On June 28, 2021, we submitted a response to OCR and in November 2021 the district signed a Resolution Agreement. The District has been implementing the Agreement, which included offering a meeting with the family, updating 27J Online Academy's enrollment procedures with respect to students with disabilities, and training on those updated procedures.

During the 2021-2022 reporting period

- On August 13, 2021, the District received notice of a complaint filed with OCR by the parents of an elementary charter school students alleging disability discrimination relating to special education services provided by Foundations Academy during the 2020-2021 school year. We submitted a response on the District's behalf in September 2021 and in December 2021 the district entered into a Resolution Agreement. The Agreement required a meeting with the family to discuss compensatory services and training of Foundations Academy staff. The student enrolled in Pennock Elementary for the 2021-2022 school year. In January 2022, parents filed a Due Process Complaint with the Colorado Department of Education against the District seeking to compel the district to allow the student's private provider to provide "medically necessary" ABA services at school. Parents dismissed the Due Process Complaint in April 2022 without a settlement.
- In January of 2022, parents of an Overland Trail Middle School student filed a State Complaint with the Colorado Department of Education alleging the District failed to develop an IEP that meets the student's needs and failed to fully implement the student's IEP. Student is a 13-year-old student who has complex medical needs requiring health care provider support. On January 27, 2022, the District and parents participated in a CDE-facilitated mediation and resolved the dispute. The District agreed to update the student's health care plan and provide some compensatory services over the summer.
- Belle Creek Charter – In October 2021, the District received notice from OCR that it had opened a complaint against the charter school because its enrollment application sought information about the disability status of applicants. The school revised application and in December 2021 OCR dismissed the complaint prior to investigation.

- In January 2022, the District learned that a paraprofessional employed at Quist Middle School had sexual contact off campus with a 7th grade student at Quest. The paraprofessional is facing criminal charges. In May 2022, the student's parents' attorney submitted a Notice of Claim. It is likely the family will formally assert claims following the resolution of the criminal case against the paraprofessional. We are working with the District's insurer to defend the claims.
- Bromley East Charter – In December of 2021, the District received notice from OCR that it had opened a complaint against the charter school because its enrollment application sought information about the disability status of applicants. The school revised application and in March of 2022 OCR dismissed the complaint prior to investigation.
- In July of 2022, the guardians of a West Ridge Elementary student filed a Due Process Complaint with the Colorado Department of Education alleging the District failed identify the student as a student eligible under the IDEA for special education services. Student is currently attending West Ridge Elementary School and receiving support through a Section 504 Plan. The parties were unable to resolve this dispute through mediation and the case is now set for a hearing before an Administrative Law Judge beginning on October 24, 2022.
- In August of 2022, the parents of a past Brantner Elementary student filed a Due Process Complaint with the Colorado Department of Education. The complaint alleges that the District failed to timely identify the student for special education, failed to make an appropriate offer of FAPE, and failed to hold a manifestation determination review meeting. The parties have agreed to participate in mediation.
- On February 18, 2022, a former administrator's attorney submitted a demand letter and later, in March of 2022, filed two charges of gender-based discrimination (one against the District and one against the District's Director of Student Achievement) with the CCRD. On May 2, 2022, we filed a response to the charge. We are working with the District's insurer to defend the claims.

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 18, 2022.

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
2020-21	54	15	69	\$281,431	4078.71	18655	\$0.22	2177	\$1.87
2021-22	91	8	99	\$320,224	\$3,234.59	19219	\$0.17	2102	\$1.54

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
2021-22	2102	19219	14	\$235,655	\$12.26	\$112.11	\$16,832.50

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

Rocky Mountain Risk

August 16, 2022

Andy Pippin

18551 East 160 th 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 2021–2022 are listed below:

Adams County Crisis Response 57
Aerial Lift Safety 1
Americans With Disabilities Act 1
Asbestos Awareness 53
Back Injury and Lifting 40
Bloodborne Pathogen Exposure Prevention 48
Bully Recognition and Response 2
Conflict Management Student 1
Coronavirus: Cleaning/Disinfecting Workplace 1
Cultural Competence and Racial Bias 2
Discrimination Awareness 1
Diversity Awareness 2
Electrical Safety 10
Fire and Explosion 2
Fire Extinguisher Use 42
Fall Protection 1
Hazard Communication 9
Ladder Safety 3
Safety for Security Staff 1
School Intruders 2
Sexual Harassment Prevention 265
Slips and Falls Prevention 142
Title IX 83
Visual weapons Screenings 1
Workplace Injury Prevention 1
Total 749
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.

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 FY2020-2021 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 2019 through 2021.

That report is set to be presented to the Legislative Audit Committee in September 2022. Through communication with the Colorado Department of Education's Office of School Finance, the District was cited in the Fiscal Health Analysis and was asked to respond in respect to ratios or indicators for the FY2020-2021 by June 10, 2022.

The following indicators were cited:

Operating Margin Ratio (OMR) – indicates the amount added to reserves for every \$1 million total generated fund gross revenues. The District's ratio was -.04.

Change in Fund Balance Ratio (CFBR) – indicates the change in the balance of the general fund from one year in relation to the prior year. The District's ratio was -.21.

Our response explained our intentional spend down of our fund balance to invest in the District with current intention to make additional spend downs in reserves. We also assured CDE that there no ongoing concerns regarding future financial conditions due to our continued increasing enrollment.

Financial Accreditation:

On June 22, 2022 the District was mailed a letter from the Colorado Department of Education (CDE) noting that the FY2020-2021 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 FY2020-2021 A-133 audit which was presented to the Board of Education at the December 14th, 2021 meeting.

Conclusion: I report compliance.