

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, 2023

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 that 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 that include substantive standards commonly found in policies/procedures adopted by other Colorado school districts*
- *Bidding/procurement procedures that 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:

Below is a list of significant legal matters that the district has been represented by our attorney Melissa Barber and the team at Caplan & Earnest since the last report:

- The parent of a former Brighton High School student filed an IDEA due process complaint with the Colorado Department of Education 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 appealed to the U.S. District Court in Colorado and the district prevailed on September 9, 2022. (A second matter, filed by parent 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, previously was resolved in favor of the district in September 2021.)
- In January 2022, the District learned that a paraprofessional employed at Quist Middle School had sexual contact off campus with a student at Quest. The paraprofessional is facing criminal charges. In May 2022, the student's parents' attorney submitted a Notice of Claim, but parents have taken no further action.

- In July of 2022, guardians of a West Ridge Elementary student filed a Due Process Complaint with the Colorado Department of Education alleging the District failed to identify the student as a student eligible under the IDEA for special education services. Student is currently attending at 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 was set for a hearing before an Administrative Law Judge beginning on October 24, 2022, but guardians voluntarily dismissed their complaint before the hearing.
- In August of 2022, the parents of a Henderson Elementary School student filed a Due Process Complaint with the Colorado Department of Education, alleging 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, all in violation of the IDEA. In October 2022, the parties participated in mediation and resolved their dispute.
- 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 and EEOC. On May 2, 2022, we filed a response to the charge. In the spring of 2023, the CCRD and EEOC issued a finding of no probable cause along with Right to Sue Letters. The parties resolved this matter by settlement in April 2023.
- On April 29, 2022, the District received a demand letter claiming that a former administrator's non-renewal from his Assistant Principal position was a violation of the Teacher Employment Compensation and Dismissal Act ("TECDA") and demanded his reinstatement. The District responded to the demand letter on May 9, 2022, but there was no further contact. Then, on October 17, 2022, the District received another demand letter from different counsel claiming that the former administrator was non-renewed because he complained about staff engaging in racial discrimination by not stopping students from using racist terms directed at students. The new demand letter claims the District retaliated against the former administrator in violation of Title VII, CADA and 42 U.S.C. §1981 (breach of contract based on protected status). This new demand letter does not claim that the former administrator was non-renewed in violation of TECDA. On November 29, 2022, the District responded to the demand letter. The former administrator has taken no further action.
- 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 non-renewal of her employment contract. On April 15, 2022, the EEOC issued a Right to Sue Notice dismissing the

charge without a determination and providing the former staff member up until July 14, 2022 to file a federal lawsuit, which she failed to do. Since the original EEOC charge was dually filed with the Colorado Civil Rights Division, we expect the CCRD also to issue a right to sue notice. In December 2022, the former staff member filed a second EEOC complaint relating to the District's failure to rehire her in the spring of 2022. On February 3, 2023 the District filed a response. The matter remains under investigation with the EEOC.

- In November 2022, the District received notice that parent of a Prairie View High School student filed a complaint with the U.S. Department of Education, Office for Civil Rights, alleging discrimination based on race, specifically, that the District failed to adequately respond to student-on-student racial harassment at Prairie View High School. On December 2, 2022, we submitted a response on behalf of the District. Currently, we are negotiating a resolution agreement with OCR.
- In March 2022, a student at Reunion Elementary School fell and hit her head when she was doing flips on the monkey bars at Reunion Elementary. She was seen by the health aide, parents were called, and they took her home early. For the rest of the school year, apparently the parents and teacher worked out an informal arrangement that included extensive accommodations: The student attended school for 1-2 hours day and her report card had E noted for 3rd and 4th quarters. The district did not receive a timely notice of claim, though in November 2022 parent inquired about insurance coverage because of the student's ongoing medical treatment. We supported CCMSI with the analysis of the claim and the letter of declination sent to parent in June 2023.
- In March 2023, the District received notice that the parent of a Riverdale Ridge High School student filed a complaint with the U.S. Department of Education, Office for Civil Rights, alleging discrimination against the student based on disability, specifically relating to her IEP and support for lack of attendance at Riverdale Ridge High School. On March 16, 2023, we filed a response on behalf of the District. This matter remains under investigation with OCR.
- In May 2023, the District received notice that Lutheran Family Services filed a complaint with the U.S. Department of Education, Office for Civil Rights, alleging that students participating in the English language development program at Second Creek Elementary School are not receiving appropriate services and that the school has failed to communicate with families in a language they understand. On May 31, 2023, we filed a response on behalf of the District. OCR has conducted two interviews. The parties are finalizing a resolution agreement.

- In May 2023, the District received a Notice of Claim on behalf of a student at Landmark Academy, a District-authorized charter school. The claims relate to alleged inappropriate sexual conduct by a former Landmark teacher. A criminal action against the teacher is proceeding. No formal complaint against the District is pending at this time.

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 17, 2023.

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

Teaching about Controversial Issues

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

2021 Bond Expenditures

Capital Construction Expenditures

Human Resources:

Teacher and Principal Evaluation

Non-Renewal Notices

Hiring Protocols

Office of the Superintendent:

Public Officials Honoraria Reporting

2022 Mill Levy Override Expenditures

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
2022-23	75	15	90	\$590,382	\$6,559.80	21892	\$0.30	2022	\$3.24

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
2022-23	2022	21892	51	\$897,314	\$40.99	\$443.78	\$17,594.39

The District received the following letter from the Rocky Mountain Risk Group referencing the 1,151 total classes completed by our employees through Rocky Mountain Risk as evidence of our ongoing commitment to training and safety during the 2022-2023 school year

Rocky Mountain Risk

July 17th, 2023 Andy Pippin
18551 East 160th Avenue
Brighton, CO 80601 Dear Andy,

Rocky Mountain Risk provides both online training and on-site scenario based training for your employees. The classes completed during FY 2022-2023 are listed below:

Adams County Crisis Response	74
Arson Awareness and Prevention	1
Asbestos Awareness	47
Athletic Liability	1
Back Injury and Lifting	70
Bloodborne Pathogen Exposure Prevention	175
Chemical Spills Overview	1
Concussion Awareness: Athletics	2
Confined Spaces	46
Conflict Management: Managing the Angry Parent	1
Conflict Management: Student-to-Student	1
Copper Theft Awareness	1
Crime Prevention through Physical Security	1
Crossing Guard Safety	1
Crowd Management	1
Disruptive Student Behavior	1
Driver Training Course 10: Danger Zones	1
Electrical Safety	25
First Aid	1
Hazard Communication: Right to Understand (GHS)	10
Ladder Safety	16
Return to Learn Following a Concussion: Tier 1 Classroom Supports	45
Safety Basics for Security Staff	1
School Intruders	1
School Violence: Identifying & Addressing	1
Sexual Harassment: Staff-to-Staff	167
Sexual Harassment: Student Issues & Response	146
Sexual Misconduct: Staff-to-Student	1
Slips, Trips and Falls	98
Special Education Support Staff: Safety and Injury Prevention	1
Sport Supervision and Safety	1
Steroid and PED Awareness in Athletics	1
Sudden Cardiac Arrest in Athletes	1
Title IX Compliance Overview	167
Visual Weapons Screening	1
Workplace Injury Prevention	42

Total

1151

Sincerely, Christian Nevola Risk Analyst

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 that include substantive standards commonly found in policies/procedures adopted by other Colorado school districts
- Bidding/procurement procedures that 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 FY2021-2022 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 2020 through 2022. That report was presented to the Legislative Audit Committee in July 2023. 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 FY2021-2022.

Financial Accreditation: On May 5, 2023 the District was provided a letter from the Colorado Department of Education (CDE) noting that the FY2021-2022 data pipeline submission and audit were accepted by CDE. CDE communicated the following concerns related to state statutes and data submission issues identified during their review:

- Audit submission within the required timeline

- 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 FY2021-2022 A-133 audit that was presented to the Board of Education at the January 25, 2023 meeting.

Conclusion: I report compliance.