

## **Business and Noninstructional Operations**

### **CONSULTANTS**

**BP 3600**

The Governing Board authorizes the use of consultants and other independent contractors to provide expert professional advice or specialized technical or training services which are not needed on a continuing basis and which cannot be provided by district staff because of limitations of time, experience, or knowledge. Individuals, firms, or organizations employed as independent contractors may assist management with decisions and/or project development related to financial, economic, accounting, engineering, legal, administrative, instructional, or other matters.

As part of the contract process, the Superintendent or designee shall determine that the individual, firm, or organization is properly classified as an independent contractor.

A person providing labor or services for remuneration shall be considered an employee rather than an independent contractor unless the district is able to demonstrate that all of the following conditions have been met: (Labor Code 2775)

1. The person is free from the control and direction of the district in connection with the performance of the work.
2. The person is performing work that is outside the usual course of the district providing educational services.
3. The person is customarily engaged in an independently established trade, occupation, or business of the same nature as the work to be performed.

The determination of whether an individual acting as a sole proprietor or a firm or other business organization is an independent contractor shall be made in accordance with Labor Code 2775-2785, as applicable.

All consultant contracts shall be brought to the Board for approval. For contracts under the current staff delegation amount, a short, summarized form can be used. In cases of emergency, staff can initiate the purchase order and present the contract for ratification rather than approval.

All qualified independent contractors shall be accorded equal opportunity for contracts regardless of actual or perceived race, ethnicity, color, national origin, ancestry, age, religious creed, marital status, pregnancy, physical or mental disability, medical condition, genetic information, veteran or military

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status, sex, sexual orientation, gender, gender identity, gender expression, immigration status, or association with a person or group with one or more of these actual or perceived characteristics. (Education Code 220; Government Code 12940)

Independent contractors shall submit a written conflict of interest statement disclosing financial interests as determined necessary by the Superintendent or designee, depending on the range of duties to be performed by the consultant. The Superintendent or designee shall consider this statement when deciding whether to recommend approval of the contract.

Any consultant hired by the district who is subject to the filing requirements in the district's conflict of interest code shall file a Statement of Economic Interests within the time period required by law. (Government Code 87302)

When employees of a public university, county office of education, or other public agency serve as consultants or independent contractors in other capacities for the district, they shall certify as part of the agreement that they will not receive salary or remuneration other than vacation pay from any other public agency for the specific days when they work for the district.

The Board prohibits the harassment of an independent contractor by any district employee or by any other person with whom the independent contractor comes in contact during the course of employment with the district. Additionally, the Board prohibits the harassment of a district employee by an independent contractor. Any complaint of harassment shall be investigated and resolved in accordance with applicable district complaint procedures. (Government Code 12940)

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*Policy Reference Disclaimer:*

*These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are*

<b>State</b>	<b>Description</b>
2 CCR 18700-18760	<u>Conflicts of Interest</u>
Ed. Code 10400-10407	<u>Cooperative improvement programs</u>
Ed. Code 17596	<u>Limit on continuing contracts</u>

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<b>State</b>	<b>Description</b>
<i>Ed. Code 220</i>	<u>Prohibition of discrimination</u>
<i>Ed. Code 35010</i>	<u>Control of district; prescription and enforcement of rules</u>
<i>Ed. Code 35172</i>	<u>Promotional activities</u>
<i>Ed. Code 35204</i>	<u>Contract with attorney in private practice</u>
<i>Ed. Code 44925</i>	<u>Part-time readers employed as independent contractors</u>
<i>Ed. Code 45103</i>	<u>Classified service in districts not incorporating the merit system</u>
<i>Ed. Code 45103.5</i>	<u>Contracts for management consulting services; restrictions</u>
<i>Ed. Code 45134-45135</i>	<u>Employment of retired classified employee</u>
<i>Ed. Code 45256</i>	<u>Merit system districts; classified service; positions established for professional experts on a temporary basis</u>
<i>Gov. Code 12940-12952</i>	<u>Unlawful employment practices</u>
<i>Gov. Code 53060</i>	<u>Special services and advice</u>
<i>Gov. Code 82019</i>	<u>Definition, designated employee</u>
<i>Gov. Code 87300-87313</i>	<u>Conflict of interest code</u>
<i>Lab. Code 2750.3</i>	<u>ABC three-part test: employees and independent contractors</u>
<i>Unemp. Ins. Code 606.5</i>	<u>Determination of employment status</u>
<i>Unemp. Ins. Code 621</i>	<u>Employer and employee defined</u>

### **Management Resources**

### **Description**

*Court Decision*

A.M. v. Albertsons, LLC, (2009)

*Cross References*

Cal.App.4th 455

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<b>Policy</b>	<b>Description</b>
0410	<u>Nondiscrimination In District Programs And Activities</u>
0415	<u>Equity</u>
3312	<u>Contracts</u>
3470	<u>Debt Issuance And Management</u>
3515.6	<u>Criminal Background Checks For Contractors</u>
4030	<u>Nondiscrimination In Employment</u>
4030	<u>Nondiscrimination In Employment</u>
4112.23	<u>Special Education Staff</u>
4117.14	<u>Postretirement Employment</u>
4119.11	<u>Sexual Harassment</u>
4119.11	<u>Sexual Harassment</u>
4132	<u>Publication Or Creation Of Materials</u>
4219.11	<u>Sexual Harassment</u>
4219.11	<u>Sexual Harassment</u>
4232	<u>Publication or Creation of Materials</u>
4317.14	<u>Postretirement Employment</u>
4319.11	<u>Sexual Harassment</u>
4319.11	<u>Sexual Harassment</u>
4332	<u>Publication or Creation of Materials</u>
9270	<u>Conflict Of Interest</u>
9270-E(1)	<u>Conflict Of Interest</u>

### Policy

**Adopted:** May 22, 2014

**Revised:** September 24, 2015; October 27, 2022

**PASADENA UNIFIED SCHOOL DISTRICT**

Pasadena, California