

Global Executive Constraint

Policy 3.0


To: Board of Education

From: Will Pierce, 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 28, 2024

A handwritten signature in black ink, appearing to read "Will Pierce".

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:

- On September 20, 2020, the District received notice of an EEOC charge of discrimination filed by educator alleging claims of disability discrimination and retaliation in connection with her requests for workplace accommodations and the nonrenewal 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 plaintiff until July 14, 2022 to file a federal lawsuit, which she failed to do. Since the original EEOC charge was dual filed with the Colorado Civil Rights Division, we expect the CCRD also to issue a right to sue notice. In December 2022, the plaintiff 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, and on June 12, 2024, the EEOC dismissed the complaint without making a determination and issued a right to sue notice. The plaintiff has until September 10, 2024 to file suit.
- In November 2022, the District received notice that the parent of a 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, C&E submitted a response on behalf of the District. Currently, we are negotiating a resolution agreement with OCR, but as of September 2023, the OCR attorney assigned to this matter was waiting on internal approval to move forward.
- In March 2023, the District received notice that parent filed a complaint with the U.S. Department of Education, Office for Civil Rights, alleging discrimination against their daughter based on disability, specifically relating to her IEP and support for lack of attendance at Riverdale Ridge High School. On March 16, 2023, C&E filed a response on behalf of the District. This matter remains under investigation with OCR. In August 2023, OCR conducted a witness interview and requested a few additional

documents, which were provided. The OCR attorney assigned to the case said at that time she was finalizing a proposed resolution agreement, but we have received no further communication since then.

- On May 5, 2023, the District received a notice of claim from parent on behalf of his daughter. The notice alleges a violation of the Claire Davis School Safety Act stemming from alleged misconduct by a teacher during the 2021-2022 school year. The teacher is currently facing criminal charges for the alleged contact with the student. The teacher was employed by the District's charter school Landmark Academy and, pursuant to the terms of the charter contract, the District is not liable for the misconduct of charter school employees. The District has submitted a request for indemnification to the charter school's carrier, but the District is not aware of the filing of any civil lawsuit.
- On August 24, 2023, the District received notice that parents filed a complaint alleging discrimination based on disability and retaliation, specifically relating to the student's 504 plan, accommodations for cheerleading tryouts, an alleged hostile environment, and retaliation in the form of placement on the junior varsity team while enrolled at Riverdale Ridge High School. On September 22, 2023, C&E filed a response on behalf of the District denying the allegations. In December 2023, we received information notice from OCR that parents had filed a second complaint with OCR relating to ongoing discrimination based on their daughter's disability. On April 29, 2024, the District signed a Resolution Agreement with OCR to resolve both complaints.
- On September 25, 2023, the District received notice that a parent filed a complaint alleging discrimination against Quist Middle School student based on disability when it failed to evaluate him for special education. On October 25, 2023, C&E filed a response on behalf of the District denying the allegations, and OCR conducted interviews in January 2024. The District entered into a Resolution Agreement on February 28, 2024.
- On November 2, 2023, the District received a Due Process Complaint regarding Connections Academy student alleging the school failed to provide student with FAPE and seeking an out of district facility placement. Connections Academy (Pearson) cooperated with the defense of this matter. On December 14, 2023, the parties resolved the matter at mediation.
- On March 6, 2024, the District received a State Complaint filed with CDE alleging the District (Padilla Elementary) failed to implement students IEP and report on her progress. On April 15, 2024, the parties resolved this matter at mediation.
- On March 26, 2024, an attorney for an employee submitted a Notice of Claim relating to a bus/motor vehicle accident. Employee was the bus driver in an accident caused by the other driver. Employee has a workers' compensation claim relating to the accident.
- On April 18, 2024, the parent of student filed a federal lawsuit against the District alleging violations of Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, and the Colorado Anti-Discrimination Act based on the

District's alleged failure to provide services and accommodations relating to student's educational program and access to extracurricular activities prior to her graduation from Brighton High School in the spring of 2023. The District's insurer has assigned the defense of this claim to us and we are actively defending the suit. A Partial Motion to Dismiss is currently pending.

- On May 20, 2024, the parent of student filed an IDEA Due Process Complaint alleging the District improperly found that student was no longer eligible for special education. On June 20, 2024, the parties resolved this matter at mediation.
- Doe v. Weiser, Cordova and School District 27J – In August, 2024, Jane Doe filed a lawsuit relating to her daughter's social gender transition while enrolled in a District high school. The District's insurer has assigned the defense of this claim to C&E. We have accepted service of the lawsuit on behalf of the District and are actively defending the matter.
- On August 13, 2024, the District received notice from the CDE-assigned State Complaint Officer that he will be investigating a complaint filed by the parent of student alleging the student's special education teacher did not hold a license to deliver special education services throughout the 2023-2024 school year. The District's response is due on August 29, 2024.

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.

Mandatory training of administrators and supervisors related to the prevention, investigation and remediation of unacceptable employee conduct is provided at the beginning of every year for all schools and District departments. Annual training sessions were held and/or made available beginning the week of July 22, 2024.

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 to state and federal laws. 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.

Learning Services:

School Year/School Calendar/Instructional Time

Title IX Sexual Harassment Grievance Process

Therapy Dogs

School Closings and Cancellations

Student Discipline

Off Campus Behavior

Transport of a Student In an Emergency

State Assessments

School and District Unified Improvement Plan

Student Handbook/FERPA update

Title I Parent Notification

Students with Disabilities

READ Act Plans

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 and Allergy Policy Implementation/Update

Public School Transportation Fund Reimbursement

2021 Bond Expenditures

Capital Construction Expenditures

Human Resources:

Teacher and Principal

Evaluation Non-Renewal

Notices

Staff Discipline -due process

Hiring Protocols

Office of the Superintendent:

Public Officials Honoraria Reporting

2022 Mill Levy Override Expenditures

Intergovernmental Agreements

Board Expectations Reports

All Department:

Superintendent Policies

Contracts

Intergovernmental Agreements

Board Expectations Report

During this reporting period there have been no claims filed against, or settled by, for errors and omission insurance coverage that is provided for members of the organization including the Board of Education for incidents of imprudence. We continue to maintain and provide workers' compensation as the chart below details, as well as maintain property insurance as the chart below details.

Workers' Compensation

Year	Med Only Count	Temp Disability/Ot her Count	Total Claim Count	Sum of Total Incurred Cost	Average Cost Per Claim	Student Count	Cost Per Student	Employee Count	Cost Per Employee
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
2023-24	94	20	114	\$832,571	\$7,303.25	22344	\$0.33	2069	\$3.53

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
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
2023-24	2069	22344	32	\$439.61	\$16.67	\$212.47	\$13,737.78

Conclusion: I report compliance.

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:

Operating Limitations as established by board policy:

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.

Conduct standards that address ETHICS:

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).

Conduct standards that address FINANCIAL

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 auditor's management letter included a deficiency surrounding the year-end review and reconciliation process for construction retainage payables. Four construction payment applications which crossed over fiscal years 2023 and 2024 were not included in the accrual for FY 2023. Since the year-end audit, the District has included this process in our documented internal control framework. The District does not anticipate this finding to be recurring or an issue for the audit of FY 2024.

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 2021 through 2023. That report was presented to the Legislative Audit Committee in August 2024. 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 FY2022-2023.

Financial Accreditation: In May 2024 the District was provided a letter from the Colorado Department of Education (CDE) noting that the FY 2022-2023 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:

- 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.

FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

The auditors presented no finding information in the FY 2022-2023 A-133 audit that was presented to the Board of Education at the January 24, 2024 meeting.

Conclusion: I report compliance.