



NEWARK BOARD OF EDUCATION Newark, New Jersey POLICY



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RELATIONS WITH VENDORS

The Board of Education wishes to maintain good working relations with vendors who supply materials and services to the school system. Constructive efforts by the administration to seek the advice and counsel of vendors about how to improve such relationships are encouraged. These efforts must conform with all statutes and law.

In the schools, vendors shall be seen by appointment only. Teachers or supervisors of instruction who have invited vendors to call should notify the principal's office in advance so that proper courtesies may be extended.

No agents, canvassers, or vendors shall have access to staff during the school day without written approval from the Superintendent or his/her designee. No business concern which solicits or gains business through the school system shall use school facilities for this purpose.

Nondiscrimination

All vendors shall supply assurances that they do not practice discrimination as described in the administrative code. All vendors shall be informed that harassment of any kind of district pupils or employees by their representatives is prohibited.

Set-Aside Programs

The Board intends to provide Minority Business Enterprises (MBEs), Women's Business Enterprises (WBEs) and Small Business Enterprises (SBEs) with the maximum opportunity to participate in the performance of Board contracts and set-aside programs.

The Board will make a good faith effort to include Newark-based businesses to the greatest extent possible.

All participating firms must have an affirmative action program and must make a good faith effort to maintain a workforce meeting State guidelines for the trades involved.

All provisions of the Public School Contracts Law, N.J.S.A. 18A:18A-1 et seq. shall apply to purchases, contracts and agreements made under this Policy.

A. Criteria

Eligibility to participate in the Board's set-aside programs requires that a vendor is certified as a MBE, WBE, or SBE. Proof of certification is acceptable from, but not limited to, the following organizations: Small Business Administration, New Jersey Commerce & Economic Growth Commission, New Jersey Department of Transportation, and the Port Authority of New York & New Jersey.

B. Definitions Relevant to the Set-Aside Programs

For purposes of this Policy:

RELATIONS WITH VENDORS (continued)

1. "Minority" means a person who is:
 - a. Black (a person having origins in any of the black racial groups in Africa);
 - b. Hispanic (a person of Spanish or Portuguese culture, with origins in Mexico, South America, Central America, or the Caribbean Islands, regardless of race);
 - c. Asian-American (a person having origins in any of the original people of the Far East, Southeast Asia, the Indian Subcontinent, Hawaii, or the Pacific Islands); or
 - d. American Indian or Alaskan native (a person having origins in any of the original peoples in North America).
2. "Minority Business Enterprise (MBE)" is a business that is independently owned and operated; qualified pursuant to N.J.S.A. 18A:18A-27; and which is (i) a sole proprietorship owned and controlled by a minority; (ii) a partnership or joint venture owned and controlled by minorities in which at least 51% of the ownership is held by minorities and the management and daily business operations of which are controlled by one or more of the minorities who own it; or (iii) a corporation or other entity whose management and daily business operations are controlled by one or more minorities who own it, and which is at least 51% owned by minorities, or if stock is issued, at least 51% of the stock is owned by one or more minorities.
3. "Women's Business Enterprise (WBE)" is a business that is independently owned and operated; qualified pursuant to N.J.S.A. 18A:18A-2; and which is (i) a sole proprietorship owned and controlled by a woman; (ii) a partnership or joint venture owned and controlled by women in which at least 51% of the ownership is held by women and the management and daily business operations of which are controlled by one or more women who own it; or (iii) a corporation or other entity whose management and daily business operations are controlled by one or more women who own it, and which is at least 51% owned by women, or if stock is issued, at least 55% of the stock is owned by one or more women.
4. "Small Business Enterprise (SBE)" is a business that is independently owned and operated; has its principal place of business in New Jersey; is qualified pursuant to N.J.S.A. 18A:18A-27; and which is a sole proprietorship, partnership, or corporation with 100 or fewer full-time employees.
5. "Independent" means a sole proprietorship, partnership, or corporation, which is not a subsidy of another organization.

Honest and Ethical Relations with Vendors; Pay to Play Restrictions

The Board shall maintain honest and ethical relations with vendors and shall guard against favoritism, improvidence, extravagance and corruption in its contracting processes and practices. The Board will not vote upon or award a contract in the amount of \$17,500 or greater to any business entity which has made a reportable contribution to a member of the board of education during the previous one-year period. Such contributions, to any member of the board, from any entity doing business with the district are prohibited during the term of the contract, including contributions by a vendor's spouse or child, or contributions by any person having an interest in the business entity. Disclosure of contributions shall be made when contracts are required by law to be publicly bid. However, these limitations do not apply when a district emergency requires the immediate delivery of goods or services.

Disbarred Vendors Will Not Be Used

When acquiring goods and services under federally sponsored programs, the District will not contract with a vendor who is currently either disbarred or suspended from doing business with the Federal government.

RELATIONS WITH VENDORS (continued)

Prior to contract award, and in accordance with Federal requirements, the business administrator or contracting specialist will check the System for Award Management (SAM) to ensure that the prospective contractor is not found in the SAM. Results from the SAM search shall be made part of the purchase order/contract documentation. Should a prospective vendor be found to be disbarred or suspended by the Federal government, the business administrator's office will notify the Superintendent of this finding and will place a hold on the supplier's registration within the District financial system.

Strategies to Avoid Excessive Professional Services Expenditures

The district will seek to avoid excessive professional services expenditures, such as by:

- A. Establishing a maximum dollar limit, for budgetary purposes,
- B. Following state legal requirements and procedures to obtain the highest quality services at a fair and competitive price or through a shared service arrangement. This may include issuance of such contracts through a request for proposals (RFP) based on cost and other specified factors or other comparable process such as the use of the "fair and open process" as defined in N.J.S.A. 19:44A-20.7; and
- C. Limiting professional services contracts to non-recurring or specialized work for which the district does not possess adequate in-house resources or expertise.

Prudent Use of Legal Services

All contracts for legal services must comply with the payment requirements and restrictions set forth in N.J.S.A. 18A:19-1 as follows:

- A. Advance payments for legal services are prohibited;
- B. Services to be provided shall be described in detail in the contract;
- C. Invoices for payment shall itemize the services provided for billing period; and
- D. Payment shall only be for services actually provided.
- E. In an effort to be prudent and efficient with public money, Board members' legal questions for an attorney that represents the Board shall be directed to the Board President.
 1. The Board President shall ensure that contracted outside legal counsel is not contacted unnecessarily for management decisions or readily available information contained in district materials such as Board policies, administrative regulations, or guidance available through professional source materials.
 2. All requests for legal advice shall be made by the Board President and shall be maintained on file in the district offices. The Board President shall determine whether the request warrants legal advice or if legal advice is necessary.
 3. The Board President shall maintain a log of all legal counsel contact including the name of the Board member making the request, date of the contact, issue discussed, and length of contact; and shall make the log available to any and all Board members upon request.
 4. All written requests for legal advice and logs of legal counsel contacts shall be forwarded to the School Business Administrator and the General Counsel for review in accordance with N.J.S.A. 18A:19-1.

RELATIONS WITH VENDORS (continued)

School districts and vocational school districts are prohibited from contracting with legal counsel or using District employed legal counsel to pursue any affirmative claim or cause of action on behalf of district administrators and/or any individual Board members or pursuing any claim or cause of action for which the damages to be awarded would benefit an individual rather than the school district as a whole.

If at any time the district's legal costs exceed 130 percent of the Statewide average per pupil amount, the procedures set forth in N.J.A.C. 6A:23A-5.2(a)3 will be implemented, unless evidence can be provided that such procedures would not result in a reduction of cost.

These procedures require the district to:

- A. Limit and designate the persons with the authority to request services or advice from contracted legal counsel;
- B. Legal counsel will not be used unnecessarily to make management decisions or to obtain readily available information such as district policies;
- C. Requests for legal advice shall be made in writing; and
- D. Contact logs and records shall be kept and reviewed to determine that the requests for legal advice are necessary.

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Key Words

Vendors, Sexual Harassment, Harassment, Nondiscrimination, Affirmative Action

<u>Legal References:</u>	<u>N.J.S.A. 10:5-1 et seq.</u>	Law Against Discrimination
	<u>See particularly:</u>	
	<u>N.J.S.A. 10:5-31</u>	
	through -35	
	<u>N.J.S.A. 18A:6-8</u>	Interest of school officers, etc., in sale of textbooks or supplies, royalties
	<u>N.J.S.A. 18A:11-1</u>	General mandatory powers and duties
	<u>N.J.S.A. 18A:12-2</u>	Inconsistent interests or office prohibited
	<u>N.J.S.A. 18A:12-21 et seq.</u>	<u>School Ethics Act</u>
	<u>N.J.S.A. 18A:18A-1 et seq.</u>	Public School Contracts Law
	<u>N.J.S.A. 18A: 19-1 et seq.</u>	Expenditures of Funds on warrant only; requisites
	<u>N.J.S.A. 18A:54-20</u>	Powers of board (county vocational schools)
	<u>N.J.S.A. 52:32-44</u>	Business registration for providers of goods and services
	<u>N.J.A.C. 6A:7-1.8</u>	Equality in employment and contract practices
	<u>N.J.A.C. 6A:28-1.1 et seq.</u>	School Ethics Commission
	<u>N.J.A.C. 6A:23A-5.2 et. seq.</u>	Public relations and professional services; board policies; efficiency
	<u>N.J.A.C. 6A:23A-6.3</u>	Contributions to board members and contract awards
	<u>N.J.A.C. 6A:30-1.1 et seq.</u>	Evaluation of the Performance of School Districts

RELATIONS WITH VENDORS (continued)

N.J.A.C. 6A:32-14.1 Review of mandated programs and services
Comprehensive Equity Plan, New Jersey State Department of Education

Possible

- Cross References:**
- *1250 Visitors
 - 1313 Gifts to district employees
 - *1330 Use of school facilities
 - *2224 Nondiscrimination/affirmative action
 - *3320 Purchasing procedures
 - *4119.21 Conflict of interest
 - *9270 Conflict of interest

*Indicates policy is included in the Critical Policy Reference Manual.