

Contracts

As specified in law, the power to contract is invested in the Governing Board. However, the Board may, by a majority vote, delegate the power to enter into contracts on behalf of the district to the Superintendent or designee.

To be valid or to constitute an enforceable obligation against the district, all contracts must be approved and/or ratified by the Governing Board. (Education Code [17604](#))

(cf. [3300](#) - *Expenditures/Expending Authority*)

(cf. [3314](#) - *Payment for Goods and Services*)

(cf. [3400](#) - *Management of District Assets/Accounts*)

All contracts between the district and outside agencies shall conform to standards required by law and shall be prepared under the direction of the Superintendent or designee.

(cf. [2121](#) - *Superintendent's Contract*)

(cf. [4312.1](#) - *Contracts*)

(cf. [9124](#) - *Attorney*)

The district upholds state nondiscrimination laws. All contracts made by the district shall contain a nondiscrimination clause in accordance with law.

(cf. [0410](#) - *Nondiscrimination in District Programs and Activities*)

The district shall not enter into a contract that prohibits a school employee from disparaging the goods or services of the contracting party. (Education Code [35182.5](#))

Contracts for Electronic Products or Services

Prior to entering into a contract for electronic products or services that require the dissemination of advertising to students, the Board shall: (Education Code [35182.5](#))

1. Enter into the contract at a noticed, public hearing of the Board.

(cf. [9320](#) - *Meetings and Notices*)

2. Make a finding that the electronic product or service is or would be an integral component of the education of students.

(cf. [0440](#) - *District Technology Plan*)

(cf. [6162.7](#) - *Use of Technology in Instruction*)

3. Make a finding that the district cannot afford to provide the electronic product or service unless it contracts to permit dissemination of advertising to students.

(cf. [1325](#) - *Advertising and Promotion*)

4. Provide written notice to parents/guardians that the advertising will be used in the classroom or other learning center. This notice shall be part of the district's normal, ongoing communication to parents/guardians.

(cf. [5145.6](#) - *Parental Notifications*)

5. Offer parents/guardians the opportunity to request in writing that their child not be exposed to the program that contains the advertising. Any request shall be honored for the school year in which it is submitted, or longer if specified, but may be withdrawn by the parents/guardians at any time.

Contracts for Digital Storage and Maintenance of Student Records

The district may enter into or renew a contract with a third party for the purpose of providing services, including cloud-based services, for the digital storage, management, and retrieval of student records and/or provide digital educational software that authorizes a third-party provider of digital educational software to access, store, and use student records. For these purposes, student records include any information maintained by the district that is directly related to a student and any information acquired directly from the student through the use of instructional software or applications assigned to the student by a teacher or other district employee, and do not include de-identified information. (Education Code 49073.1)

(cf. *5125 – Student Records*)

Any such contract shall contain all of the following: (Education Code 49073.1)

- 1. Any statement that student records continue to be the property of an under the control of the district**
- 2. If applicable, a description of the means by which students may retain possession and control of their own student-generated content, as defined in Education Code 49073.1, including options by which a student may transfer student-generated content to a personal account**
- 3. A prohibition against the third party using any information in the student record for any purpose other than those required or specifically permitted by the contract**

4. A description of the procedures by which a parent/guardian or a student age 18 years or older may review personally identifiable information in the student's records and correct erroneous information
5. A description of the actions the third party will take, including the designation and training of responsible individuals, to ensure the security and confidentiality of student records
6. A description of the procedures for notifying the affected parent/guardian, or the affected student if age 18 years or older, in the event of an unauthorized disclosure of the student's records
7. A certification that student's records shall not be retained or available to the third party upon completion of the terms of the contract and a description of how that certification will be enforced, except that these requirements shall not apply to student-generated content if the student chooses to establish or maintain an account with the third party for the purpose of storing that content
8. A description of how the district and the third party will jointly ensure compliance with the federal Family Educational Rights and Privacy Act, 20 USC 1232g
9. A prohibition against the third party using personally identifiable information in student records to engage in targeted advertising

Legal Reference:

EDUCATION CODE

[200-262.4](#) *Prohibition of discrimination on the basis of sex*

[14505](#) *Provisions required in contracts for audits*

[17595-17606](#) *Contracts*

[35182.5](#) *Contract prohibitions*

[45103.5](#) *Contracts for management consulting service related to food service*

49073.1 *Contract requirements for digital storage, maintenance and retrieval of student records*

CODE OF CIVIL PROCEDURE

[685.010](#) *Rate of interest*

GOVERNMENT CODE

[12990](#) *Nondiscrimination and compliance employment programs*

[53260](#) *Contract provision re maximum cash settlement*

[53262](#) *Ratification of contracts with administrative officers*

LABOR CODE

[1775](#) *Penalties for violations*

[1810-1813](#) *Working hours*

PUBLIC CONTRACT CODE

[4100-4114](#) Subletting and subcontracting fair practices

[7104](#) Contracts for excavations; discovery of hazardous waste

[7106](#) Noncollusion affidavit

[20111](#) Contracts over \$50,000; contracts for construction; award to lowest responsible bidder

[20104.50](#) Construction Progress Payments

[22300](#) Performance retentions

UNITED STATES CODE, TITLE 42

1681-1688 Title IX, discrimination

Management Resources:

WEB SITES

CASBO: <http://www.casbo.org>

Policy SOUTH PASADENA UNIFIED SCHOOL DISTRICT

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