

## Business and Noninstructional Operations

### Consultants

The Board of Education authorizes the use of consultants 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 consultants 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, in accordance with Internal Revenue Service guidelines, that the consultant is properly classified as an independent contractor. District employees who perform extra-duty services shall not be retained as independent contractors. They shall be considered employees for all purposes, even if the additional services are not related to their regular duties. A person, firm, or organization 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 2750.3)

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

Specific statutory exceptions to this analysis for the determination of whether a person, firm, or organization is an independent contractor may apply. (Labor Code 2750.3)

All consultant contracts shall be brought to the Board for approval.

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

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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)

Legal References:      Education Code, Sections 220; 10400-10407; 17596; 35010; 35172;  
   35204; 44925; 45103; 45103.5; 45134-45135; 45256  
   Government Code, Sections 12940; 53060; 82019; 87302  
   Labor Code, Section 2750.3  
   Unemployment Insurance Code, Section 606.5; 621  
   Code of Regulations, Title 2

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