

## Business and Noninstructional Operations

### **CONTRACTS**

Whenever state law invests the Board of Education with the power to enter into contracts on behalf of the District, the Board may, by a majority vote, delegate this power 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 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)*

When required by law, contracts and subcontracts made by the District for public works or for goods or services shall contain a nondiscrimination clause prohibiting discrimination by contractors or subcontractors. The nondiscrimination clause shall contain a provision requiring contractors and subcontractors to give written notice of their obligations to labor organizations with which they have a collective bargaining or other agreement. (Government Code 12990)

*(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 Non-Nutritious Foods or Beverages

Before the District or a school enters into or renews a contract that grants exclusive or nonexclusive advertising or sale of carbonated beverages, non-nutritious beverages, or non-nutritious food as defined in law, the Board shall ensure that the District has sufficient internal controls in place to protect the integrity of public funds and to ensure that funds raised as a result of this contract benefit public education. (Education Code 35182.5)

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**CONTRACTS** (continued)

The Superintendent or designee shall ensure that the contract does not limit the ability of student and parent organizations to plan and operate fundraising activities.

*(cf. 1230 - Community/Booster Organizations)*

*(cf. 1321 - Fund Raising/Solicitations)*

*(cf. 3554 - Other Food Sales)*

The contract shall be entered into on a competitive bid basis pursuant to Public Contract Code 20111 or through the issuance of a Request for Proposal. (Education Code 35182.5)

*(cf. 3311 - Bids)*

The Board shall not enter into or renew a contract that grants exclusive or nonexclusive advertising or sale of carbonated beverages, non-nutritious beverages, or non-nutritious food until parents/guardians, students, and members of the public have had an opportunity to comment on the contract at a public hearing held during a regularly scheduled board meeting. The Board shall clearly, and in a manner recognizable to the general public, identify in the agenda the contract to be discussed at the meeting. (Education Code 35182.5)

*(cf. 9322 - Agendas/Meeting Materials)*

*(cf. 9323 - Meeting Conduct)*

The contract shall be accessible to the public and may not include a confidentiality clause that would prevent the District or a school from making any part of the contract public. (Education Code 35182.5)

*(cf. 1340 - Access to District Records)*

Contracts for Electronic Products or Services

The Board shall not enter into a contract for electronic products or services that requires the dissemination of advertising to students unless the Board, at a noticed public hearing, makes a finding that the electronic product or service is or would be an integral component of the education of students and the District cannot afford to provide the electronic product or service unless it contracts to permit dissemination of advertising to students. (Education Code 35182.5)

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**CONTRACTS** (continued)

Any such decision shall result in written notice to parents/guardians that advertising will be used in an educational program.

*(cf. 9320 - Meetings and Notices)*  
*(cf. 6162.7 - Use of Technology in Instruction)*  
*(cf. 1325 - Advertising and Promotion)*

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

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 20

1681-1688 Title IX, discrimination

Management Resources:

CSBA PUBLICATIONS

Healthy Food Policy Resource Guide, 2003

WEBSITES

CSBA: [www.csba.org](http://www.csba.org)  
CASBO: [www.casbo.org](http://www.casbo.org)

Policy

Adopted: 11/13/90  
Revised: 07/19/05

CHULA VISTA ELEMENTARY SCHOOL DISTRICT  
Chula Vista, California