

POLICY

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6360. POLITICAL CONTRIBUTIONS (M)

Political Contribution Disclosure Requirements

In accordance with the requirements of Section 2 of P.L. 2005, Chapter 271 (N.J.S.A. 19:44A-20.26), the Board of Education shall have on file, to be maintained with other documents related to a contract, the following documents to award a “non-fair and open” contract to any business entity receiving a contract for services to be provided:

1. A Political Contribution Disclosure (PCD) form submitted by the business entity (at least ten days prior to award); and
2. A Business Registration Certificate (anytime prior to award).

“Business entity” means a natural or legal person, business corporation, professional services corporation, limited liability company, partnership, limited partnership, business trust, association or any other legal commercial entity organized under the laws of New Jersey or any other State or foreign jurisdiction.

A “non-fair and open” procurement process is one that does not meet the standards defined in N.J.S.A. 19:44A-20.7 as a “fair and open process.” “Fair and open” is defined as being:

1. Publicly advertised (either conventionally in newspapers or posted on the district website) in sufficient time (at least ten calendar days) to give notice in advance of the contract, and
2. Awarded under “a process that provides for public solicitation or proposals or qualifications,” and
3. Awarded under criteria established in writing by the Board prior to the solicitation of proposals or qualifications, and
4. Publicly opened and announced when awarded.

A PCD form is not required to be submitted by a business entity if the contract is awarded under a “fair and open” process as outlined above. Public bidding and competitive contracting models meet the requirements of a “fair and open” process.



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The \$17,500.00 contract amount is not related to the Board's bid threshold and does not exempt the district from the requirements of the Public School Contracts Law or other applicable purchasing statutes. The \$17,500.00 contract amount threshold is subject to the principle of aggregation rules in accordance with the Division of Local Government Services guidance.

The disclosure provisions of N.J.S.A. 19:44A-20.26 do not apply in cases where there is a "public emergency" that requires the immediate delivery of goods or services.

Insurance companies and banks are prohibited under State law from making political contributions. However, because the PCD form reflects contributions made by partners, boards of directors, spouses, etc., PCD forms are required ten days prior to the approval of a depository designation resolution or insurance company contract awarded by the Board.

PCD forms are not required for regulated public utility services, as the Board is required by the Board of Public Utilities to use a specific utility. This exception does not apply to non-regulated public utility services, such as generated energy (not tariffed), or long-distance telephone services where other procurement practices are used.

PCD forms are not required for Board of Education contracts with a New Jersey Department of Education "Approved In-State Private School for the Disabled." PCD forms are not required for membership to the New Jersey School Boards Association.

Limitations on the Award of Certain Contracts

In accordance with N.J.S.A. 40A:11-51, a Board of Education is authorized to establish by Policy, as may be appropriate, measures limiting the awarding of public contracts to business entities that have made contributions pursuant to N.J.S.A. 19:44A-1 et seq. and/or limiting the contributions the holders of a contract can make during the term of a contract, notwithstanding the provisions and parameters of N.J.S.A. 19:44A-20.2 et seq. and N.J.S.A. 19:44A-22.

The Board of Education will not award any "non-fair and open process" contract to a business entity if that contract has an anticipated value in excess of \$17,500.00 if the business entity made a reportable contribution to any sitting Board member's or official candidate's election or re-election campaign. Furthermore, a business entity awarded a "non-fair and open process" contract with an anticipated value in excess of \$17,500.00 may not make a reportable contribution to any Board member's re-election campaign during the term of the contract. A business entity who receives such contract will be required to certify, prior to such contract being awarded, that no reportable contributions



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were made the one year preceding the award of the contract.

A Board of Education member will not participate in any discussions and will not vote on any “non-fair and open process” contract to a business entity if that contract has an anticipated value in excess of \$17,500.00 if the business entity made a reportable contribution to the Board member’s campaign for membership to the Board.

“Reportable contribution” is one that is reportable by the recipient under the New Jersey Campaign Contributions and Expenditures Reporting Act, N.J.S.A. 44A-1 et seq. When a business entity is also a natural person, a contribution by that person’s spouse or children residing with the natural person shall be deemed contributions by the business entity. When the business entity is other than a natural person, a contribution by any person or other business entity having an interest shall be deemed a contribution by the business entity.

“Interest” means the ownership of control of more than ten percent of the profits or assets of a business entity or ten percent of the stock in the case of a business entity that is a corporation for profit, as appropriate.

The Board of Education will file this Policy with the Secretary of State at the office of Secretary of State, Laws and Commission.

N.J.S.A. 19:44A-1 et seq.

Adopted: 11/12/2007 Revision

