

THE SCHOOL DISTRICT OF
PHILADELPHIA

No. 820

Section: Operations

Title: Ratifications of
Contracts and
Acceptance of Gifts

Adopted: October 5,
2011

Revised: March 26,
2020

820 RATIFICATIONS

Purpose

The Board of Education (“Board”) recognizes that on occasion it may be necessary for the School District of Philadelphia (“District”) to execute, deliver, and perform contracts and accept grants, gifts, and donations without prior approval of the Board. The Board adopts the within policy to clarify when such action and/or Board ratification are permissible.

Authority

It is the policy of the Board that the execution, delivery and performance of contracts and acceptances of grants, gifts, and donations on behalf of the District without prior approval by the Board is impermissible except as provided for in this Policy or stated in another policy, resolution, or action item. On occasions, it may be necessary for the District to take action before Board approval. In such cases, District staff shall promptly and expeditiously submit proposed ratifying Action Items to the Board for consideration and voting at the next scheduled publicly-held Board meeting unless a different deadline, as set forth below, is applicable.

Delegation of Responsibility

The Board adopts this Policy and authorizes the District, through the Superintendent or designee, to take the following actions that would otherwise require prior approval from the Board without such prior approval, subject to ratification by the Board:

1. Emergencies - Goods and Services, Construction, Renovations, Environmental
2. Construction Change Orders

3. Employment of School District Personnel
4. Federal, State, and Local Memoranda Of Understanding, Fees, Permits, Licenses, etc. with other Public Agencies
5. Acceptance of Grants, Gifts, and Donations
6. Summer Activities and Summer School Programs

Other Ratifications - Ratification of other unapproved actions and acceptance of grants, gifts, and donations by the District may be considered and approved by the Board on a case-by-case basis, if the Board is satisfied that approval is in the best interest of the District.

Mandatory Regulatory Procedures

Emergencies - Goods and Services

The Board recognizes that emergencies may occur when imminent danger or threat exists to public health, welfare or safety to persons or property, continuance of existing school classes is threatened, the necessity of keeping vital equipment operative or circumstances outside the control of the School District, creating an urgency or need which does not permit the delay involved in using formal, competitive procurement methods.

[1][2][3][4][5][6][7][8][9][10][11][12][13]

The Superintendent or designee may make or authorize others to make an emergency procurement when:

1. There is a threat to life, public safety, welfare, or safety; or
2. Circumstances outside the control of the District create an urgency which does not permit using the normal competitive procurement methods. The District, through the Office of Procurement Services, is authorized to promptly procure emergency services or supplies in accordance with the terms of Policy 611 and the Procurement Manual and then to obtain ratification at the next regularly scheduled Board meeting. Email notice of the action shall be provided to the President of the Board with copies to all Board Members within forty-eight (48) hours of the action.

Emergencies – Construction, Renovations; Environmental

The Board recognizes that emergency construction work and environmental remediation on its school buildings may be needed and that the District has an obligation to provide safe and suitable facilities for the education of its students.

The District, through the Office of Capital Programs, is authorized to promptly perform emergency repairs or replacements on school buildings using outside construction contractors in accordance with the terms of the approved bid or bids and then to obtain ratification of completed or approved emergency construction work. Email notice of the action shall be provided to the President of the Board with copies to all Board Members within forty-eight (48) hours of the action.[1][11]

Construction Change Orders

The Board recognizes that changes are inevitable in many construction projects and that projects are rarely built exactly as they were originally designed. Changes can come into play when issues arise involving extra work performed beyond the original scope of a contract; defective plans, drawings or specifications; differing, changed, or unforeseen site conditions; project acceleration; and project delays. The District's construction contracts contain detailed rules, regulations, and procedures for identifying, investigating, and analyzing changes on construction projects and issuing constructive change directives, and for negotiating, approving, or ratifying, and processing change orders on construction projects.

A construction contractor may have the right to initially refuse to proceed with performing change order work until it receives Board approval and may have a claim to recover damages from the District for construction project delays caused by the District's delay in supplying a Board-approved change order. The time lost can impact related project deadlines, delay project completion, and carry programmatic implications.

Accordingly, the District, through the Office of Capital Programs, is authorized to review, negotiate and approve change orders, subject to ratification within ninety (90) days of Office of Capital Programs' approval of the change order. Email notice of the action shall be provided to the-President of the Board with copies to other Board members. [10]

Prequalification of Construction Contractors And Design Professionals: Professional Design Services Contracts And Contract Amendments

The Board approves and continues prior delegation to the Office of Capital Programs of the authority to prequalify contractors and design professionals, and to award professional design services contracts and contract amendments and to submit awarded contracts to the Board for ratification within ninety (90) days after execution and delivery of a contract.

Employment of School District Personnel

The Board recognizes that “contracts of any kind” must be approved by the Board, that the District is required to have employment contracts with its professional employees, and that the Board shall approve the employment and determine responsibilities and compensation for each employee.

The Superintendent or designee is authorized to seek Board approval of hiring-decisions at the regularly scheduled monthly Board meeting after the hiring process is completed. The personnel resolutions must include a statement that the individuals recommended for hiring participated in an application and evaluation process supervised by the Office of Talent and Development and that the individuals have satisfactorily completed the required background checks, clearances, and all other requirements of employment.[13][14][15][16]

Federal, State, and Local Memoranda of Understanding, Fees, Permits, Licenses, etc. with Other Public Agencies

The Board recognizes the District is required to pay or reimburse other public entities for fees and charges for permits, licenses, inspections, etc. – sometimes pursuant to purchase orders or invoices. The amounts due are not always known in advance to be authorized by the Board. Also, the Superintendent or designee may enter into Memoranda of Understanding with other public entities for no cost services if there is an important need to do so prior to Board approval.

Acceptance of Grants, Gifts, and Donations

The Board has authorized the Superintendent or designee to accept grants, gifts, and donations that support the mission and priorities of the District or District schools that are valued up to and including the amount set forth in Policy 702. Acceptance of grants, gifts, and donations exceeding that amount shall be authorized by separate Board action items. The Board recognizes that occasionally grantors and donors of grants, gifts, and donations in excess of the amount established by Policy 702 want or need to make a grant, gift, or donation before there is time for Board approval. The Superintendent or designee may accept such grants, gifts, and donations if the acceptance is in the best interests of the District and there are good grounds for acceptance prior to Board approval. Email notice of the acceptance shall be provided promptly to the President of the Board, copying all Board members.[17]

Summer Activities and Summer School Programs

The Board recognizes that summer activities and summer school programs may not be fully developed or planned in time for consideration at the public Board meeting in June of each year, but that they may be important for students and in the best interests of the District. The Superintendent or designee shall provide written notification to the Board President, copying all Board members, no later than ~~its~~ the public Board meeting in June of each year, of the planned activities and the amounts of expenditures over the summer for which ratification may be sought. The District must seek ratification no later than the September Board meeting-of the same calendar year.

Specialized Services

The Board recognizes that the Office of Specialized Services may need to provide and/or pay for services prior to Board approval in the following situations:[18][19][20][21]

1. When there is a change in student services agreed upon by an IEP team, such as additional 1:1 aides or related services (e.g. occupational or physical therapy), which services must begin on a timely basis;
2. When the District is billed for full tuition costs - rather than for state subsidized rates - for approved private schools or residential treatment facilities- and billing reconciliations do not occur until the last quarter of the school year; or
3. When there is a transition from services provided pursuant to a settlement agreement to a contracted placement.

Other Ratifications

Ratification of other unapproved actions and acceptance of grants, gifts, and donations by the District may be considered and approved by the Board in other situations, if the Board is satisfied that approval is in the best interests of the District.

Legal References:

1. [Policy 611](#) - Exceptions to Purchases Subject to a Competitive Process
2. 24 P.S. § 336
3. 24 P.S. § 337
4. 24 P.S. § 337a
5. 24 P.S. § 337b
6. 24 P.S. § 337c
7. 62 Pa.C.S.A. § 515

8. 62 Pa.C.S.A. § 516
9. [Policy 610](#) - Purchases Subject To Competitive Process
10. 24 P.S. § 7-701
11. 24 P.S. § 7-751
12. 22 Pa.Code § 21.21.
13. 24 P.S. § 1-111
14. 24 P.S. § 5-508
15. 24 P.S. § 11-1121
16. [Policy 304](#) - Employment of District Staff
17. [Policy 702](#) - Gifts, Grants, Donations, Student Fundraising
18. 22 Pa.Code § 14.101, *et seq.*
19. 20 U.S.C. §§ 1400, *et seq.*
20. 29 U.S.C. § 794. Section 504 of the Rehabilitation Act of 1973
21. 42 U.S.C. §§ 12101, *et seq.*