



Policy Committee Meeting

Thursday, March 14, 2024
One Larkin Center, Board Room, 4th Floor
Yonkers, New York 10701
5:00 p.m.

I. Welcome & Updates

II. Draft Policies for Review:

Section	Policy
4730	Homework
5500	Student Records
5500 R	Student Records Regulation
5550	Student Privacy
8130.2	Workplace Violence Prevention

III. Final Draft Policies for Review:

Section	Policy
2420	Administrative Regulations
5300	Code of Conduct
5710	School Safety and Educational Climate (SSEC) Reporting
6700	Purchasing
6700 R	Purchasing Regulation

IV. Adjournment

HOMWORK

The Board of Education defines homework or extra class study as a continuation and extension of work previously reviewed and/or completed in the classroom. Homework assignments should be used as a teaching and learning strategy to provide reinforcement of the concept or practice on a principle or skill already taught; to provide real-life application of the matter in hand; and to develop appreciation for or knowledge of community resources. Homework provides excellent opportunities for developing good study habits, providing for individual differences and abilities, and encouraging self-initiative on the part of the student.

The Board encourages a balanced approach to homework, recognizing the importance of allowing time for extracurricular activities, family responsibilities, and personal interests. Homework will be assigned according to these guidelines:

- it should not be excessive in length, generally following the rule that students should spend no more than approximately 10 minutes multiplied by their grade level per night to complete all homework assignments, i.e., the “10-minute rule” (e.g., first graders should have roughly 10 minutes of homework per night, approximately 40 minutes total per night for fourth graders, reaching a maximum of up to two hours per night in total for high school seniors);
- should take into consideration students’ grade levels and ability to work independently;
- the number, frequency, and degree of difficulty of homework assignments should be based on the needs of the students, taking into consideration cognitive and/or language abilities as well as their strengths and interests;
- it should be aligned to grade level standards;
- it should develop literacy, be culturally-responsive, and/or foster meaningful experiences;
- for students in the earliest grades, it should foster positive attitudes, habits, and character traits, permit appropriate parent involvement, and reinforce learning of simple skills in class;
- for students in upper elementary grades, it should play a more direct role in fostering school achievement; and
- in sixth grade and beyond, it should play an important role in improving standardized test scores, college and career readiness, and grades.

The Board of Education believes that parental involvement in students' homework is essential to making homework an integral part of the educational program. Parents are expected to encourage and monitor homework assignments and, to the extent possible, provide conditions that are conducive to their successful completion.

Adoption date: July 20, 2011

Revised:

STUDENT RECORDS

The Board of Education recognizes its legal responsibility to maintain the confidentiality of student records. As part of this responsibility, the Board will ensure that eligible students and parents/guardians have the right to inspect and review education records, the right to seek to amend education records, and the right to have some control over the disclosure of information from the education record. The procedures for ensuring these rights will be consistent with state and federal law, including the Family Educational Rights and Privacy Act of 1974 (FERPA) and its implementing regulations.

The Board also recognizes its responsibility to ensure the orderly retention and disposition of the District's student records in accordance with the Retention and Disposition Schedule LGS-1 for New York Local Government Records as adopted by the Board in policy 1120.

The District will use reasonable methods to authenticate the identity of the requestor and provide access to student educational records only to those authorized under the law. The District will document requests for and release of records, and retain the documentation in accordance with law. Furthermore, pursuant to Chapter 56 of the Laws of 2014, the District will execute agreements with third-party contractors who collect, process, store, organize, manage, or analyze student personally identifiable information (PII) to ensure that the contractors comply with the law in using appropriate means to safeguard the data.

The Superintendent of Schools is responsible for ensuring the District implements and complies with all requirements under law and the Regulations of the Commissioner of Education.

Definitions

Authorized Representative: an authorized representative is any individual or entity designated by a State or local educational authority or a Federal agency headed by the Secretary, the Comptroller General, or the Attorney General to carry out audits, evaluations, or enforcement or compliance activities relating to educational programs.

Education Record: means those records, in any format, directly related to the student and maintained by the District or by a party acting on behalf of the District, except:

1. records in the sole possession of the individual who made it and not accessible or revealed to any other person except a substitute (e.g. memory joggers);
2. records of the District's law enforcement unit;
3. grades on peer-graded papers before they are collected and recorded by a teacher.

Eligible Student: a student who has reached the age of 18 or is attending postsecondary school.

Legitimate educational interest: a school official has a legitimate educational interest if they need to review a student's record in order to fulfill their professional responsibilities.

Personally identifiable information (PII): as it pertains to students, is information that would allow a reasonable person in the school or its community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty. Such data might include social security number, student identification number, parents' name and/or address, a biometric record, etc. This term is fully defined in federal regulations at 34 CFR 99.3.

School official: a person who has a legitimate education interest in a student record who is employed by the District as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel); a member of the Board of Education; a person or company with whom the District has contracted to perform a special task (such as attorney, auditor, medical consultant, or therapist); or a parent or student serving on an official committee, such as disciplinary or grievance committee, or assisting another school official performing their tasks. Volunteers may be considered school officials for purposes of access to personally identifiable information if they are under the direct control of the District, are trained in the requirements of law under this policy, have a legitimate educational interest, and the District uses reasonable methods to limit access to only the information that is necessary to fulfill their volunteer duties. Volunteers may only access the information necessary for the assignment, and must not disclose student information to anyone other than a school official with a legitimate educational interest. The Building Principal will provide adequate training on confidentiality of student records.

Third party contractor: is any person or entity, other than an educational agency (which includes schools, school districts, BOCES, or the State Education Department), that receives student or teacher/principal PII from an educational agency pursuant to a contract or other written agreement for purposes of providing services to such educational agency. Such services may include, but not limited to, data management or storage services, conducting studies for or on behalf of such educational agency, or audit or evaluation of publicly funded programs. This includes educational partnership organizations that receive student or teacher/principal PII from a school district to carry out responsibilities under Education Law §211-e (for persistently lowest-achieving schools or schools under registration review) and is not an educational agency. This also includes not-for-profit corporations or other nonprofit organizations, other than an educational agency.

Annual Notification

The District will annually notify parents, guardians, and eligible students currently in attendance of their rights under FERPA and New York State Law, and the procedures for exercising those rights. A 'Parents' Bill of Rights for Data Privacy and Security' will be posted on the District website and included in any agreements with third-party contractors (see 8635-E). The notice and 'Bill of Rights' may be published in a newspaper, handbook, or other school bulletin or publication. The notice and 'Bill of Rights' will also be provided to parents, guardians, and eligible students who enroll during the school year.

The notice and Parents' Bill of Rights will include a statement that the parent/guardian or eligible student has a right to:

1. inspect and review the student's education records;

2. request that records be amended to ensure that they are not inaccurate, misleading, or otherwise in violation of the student's privacy rights;
3. consent to disclosure of personally identifiable information contained in the student's education records, except to the extent that FERPA authorizes disclosure without consent; and
4. file a complaint with the United States Department of Education alleging failure of the District to comply with FERPA and its regulations; and/or file a complaint regarding a possible data breach by a third party contractor with the District and/or the New York State Education Department's Chief Privacy Officer for failure to comply with state law.

The annual notice and Parents' Bill of Rights will inform parents/guardians and eligible students:

1. that it is the District's policy to disclose PII from student records, without consent, to other school officials within the District whom the District has determined to have legitimate educational interests. The notice will define 'school official' and 'legitimate educational interest.'
2. that, upon request, the District will disclose education records without consent to officials of another school district in which a student seeks to or intends to enroll or is actually enrolled.
3. that PII will be released to third party authorized representatives for the purposes of educational program audit, evaluation, enforcement, or compliance purposes.
4. that the District, at its discretion, releases directory information, as defined below, without prior consent, unless the parent/guardian or eligible student has exercised their right to prohibit release of the information without prior written consent. The District will not sell directory information.
5. that, upon request, the District will disclose a high school student's name, address, and telephone number to military recruiters and institutions of higher learning unless the parent or secondary school student exercises their right to prohibit release of the information without prior written consent.
6. of the procedure for exercising the right to inspect, review, and request amendment of student records.
7. that the District will provide information as a supplement to the 'Parents' Bill of Rights' about third parties with which the District contracts that use or have access to personally identifiable student data.

The District may also release student education records, or the PII contained within, without consent, where permitted under federal law and regulation. For a complete list of exceptions to FERPA's prior consent requirements see accompanying regulation 5500-R.

The District will effectively notify parents, guardians, and eligible students who have a primary or home language other than English in their primary language.

In the absence of the parent or secondary school student exercising their right to opt out of the release of information to the military, the District is required, under federal law, to release the information indicated in number five (5) above.

Directory Information

The District has the option under FERPA of designating certain categories of student information as “directory information.” The Board directs that “directory information” include a student’s

- Name
- ID number, user ID, or other unique personal identifier used by a student for purposes of accessing or communicating in electronic systems (only if the ID cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the student’s identity)
- Address (except information about a homeless student’s living situation, as described below)
- Telephone number
- Date and place of birth
- Major course of study
- Participation in school activities or sports
- Weight and height if a member of an athletic team
- Dates of attendance
- Degrees, honors, and awards received
- Most recent school attended
- Grade level
- Photograph
- E-mail address
- Enrollment status
- Class schedule
- Class roster

Information about a homeless student’s living situation will be treated as a student educational record, and will not be deemed directory information. A parent/guardian or eligible student may elect, but cannot be compelled, to consent to release of a student’s address information in the same way they would for other student education records. The District’s McKinney-Vento liaison will take reasonable measures to provide homeless students with information on educational, employment, or other postsecondary opportunities, and other beneficial activities. The District permits the parent/guardian to select the school’s address as the student’s address for purposes of directory information.

Social security numbers or other PII will not be considered directory information.

Once the District provides proper FERPA notification, a parent/guardian or eligible student has fourteen (14) days to notify the District of any objections they have to any of the “directory

information” designations. If no objection is received, the District may release directory information without prior approval of the parent/guardian or eligible student. Once a parent/guardian or eligible student provides the District with an “opt-out,” it will remain in effect after the student is no longer enrolled in the District.

The District may elect to provide a single notice regarding both directory information and information disclosed to military recruiters and institutions of higher education.

Cross-ref: 1120, School District Records
4321, Programs for Students with Disabilities
4532, School Volunteers
5151, Homeless Children
5550, Student Privacy
8635, Information and Data Privacy, Security, Breach, and Notification

Ref: 20 USC §§1232g; 7908
34 CFR Part 99
10 USC §503
Education Law §§2-a; 2-b; 2-c; 2-d; 225
Public Officers Law §87(2)(a)
Arts and Cultural Affairs Law, Article 57-A
8 NYCRR Part 121; Part 185; Appendix L
U.S. Department of Education Student Privacy Policy Office’s Student Privacy website:
<https://studentprivacy.ed.gov/?src=fpc>

Adoption date: May 8, 2007

Revised:

STUDENT RECORDS REGULATION

The Board recognizes the District's responsibility for maintaining the confidentiality of student records and hereby adopts the following procedures in furtherance of protecting the confidentiality of student records. The terms used herein are defined in the accompanying policy.

Section 1

Pursuant to the Family Educational Rights and Privacy Act (FERPA) and state law it is the policy of the District to permit parents/guardians and eligible students to inspect and review any and all official records, files, and data directly related to that student, including all materials that are incorporated into each student's cumulative record folder.

The rights created by FERPA and state law transfer from the parents/guardians to the student once the student attains eligible student status. However, the District may disclose information to parents of eligible students under certain circumstances including when the student is a dependent under the IRS tax code; the student has violated a law or the school's rules regarding alcohol or substance abuse (and the student is under 21); the information is needed to protect the health or safety of the student or other individuals.

Section 2

The District will provide parents/guardians or eligible students an opportunity for a hearing to challenge the content of the student's school records, to ensure the records are not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, and to provide an opportunity for the correction or deletion of any inaccurate, misleading, or otherwise inappropriate data contained therein.

Section 3

The District will annually notify parents/guardians of students currently in attendance and eligible students currently in attendance of their rights pursuant to FERPA and state law, and the procedures for exercising those rights. A Parents' Bill of Rights will be posted on the District's website (see 8635-E). The District will effectively notify parents, guardians, and eligible students who have a primary or home language other than English.

Section 4

In an effort to ensure the rights provided for in sections 1 and 2 above, the District will implement the following procedures:

1. A parent/guardian or an eligible student who wishes to inspect and review student records must make a request for access to the student's school records, in writing, to the Superintendent and/or any designee(s) thereof, including, but not limited to the building principal. Upon receipt of such request, the District will verify the identity of the parent/guardian or eligible student and provide access to such records within forty-five (45) days of receipt of the request. If the record to which access is sought contains information on more than one student, the parent/guardian or eligible student will be allowed to inspect and review only the specific information about the student on whose behalf access is sought.

- a. Before providing access to student records, the District will verify the identity of the parent/guardian or eligible student.
 - b. The District may provide the requested records to the parent/guardian or eligible student electronically, as long as the parent/guardian or eligible student consents. The District will transmit PII electronically in a way that maintains its confidentiality, using safeguards such as encryption and password protection.
2. A parent/guardian or an eligible student who wishes to challenge the contents of the student's school records must submit a request, in writing, to the Superintendent and/or any designee(s) thereof, including, but not limited to, the Building Principal identifying the record(s) which they believe to be inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student together with a statement of the reasons for their challenge to the record.
3. Upon receipt of a written challenge, the District will provide a written response within a reasonable amount of time following its receipt of the written challenge indicating either:
 - a. A finding that the challenged record is inaccurate, misleading, or otherwise in violation of the student's rights and that the record will be corrected or deleted; or
 - b. A finding that there is no basis for correcting or deleting the record in question, but that the parent/guardian or eligible student may request an opportunity for a hearing. The District's response will also outline the procedures to request such hearing.
4. Within thirty (30) days following receipt of the District's written response, a parent/guardian or eligible student may request, in writing, that a hearing be held to review the challenged record determination.
5. The District will schedule the hearing within a reasonable amount of time following its receipt of the written hearing request. The parent/guardian or eligible student will receive reasonable notice of the date, time, and place of the hearing. The Superintendent shall ensure that the hearing is conducted by an individual who does not have a direct interest in the outcome of the hearing.
6. The parent/guardian or eligible student will be given a full and fair opportunity to present evidence at the hearing relevant to the challenge that the student's educational record is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student. The parent/guardian or eligible student may, at their own expense, be assisted or represented by one or more individuals of their own choice, including an attorney.
7. The Superintendent or other individual designated by the Superintendent will provide the parent/guardian or eligible student a decision in writing within a reasonable time following the hearing. The decision must be based solely on the evidence presented at the hearing, and must include a summary of the evidence and the reasons for the decision.
8. After the hearing, if the Superintendent or the individual designated by the Superintendent decides not to amend the record, the District will inform the parent/guardian or eligible student that they have the right to place a statement in the record commenting on the contested information or stating why they disagree with the decision of the District. Any statement placed in the record will be maintained with the contested part of the student record for as long as the record is maintained. Further, the statement will be disclosed by the District whenever it discloses the portion of the record to which the statement relates.

Except to the extent that FERPA authorizes disclosure of student records without consent, student records, and any material contained therein which is personally identifiable, are confidential and will not be released or made available to persons other than parents/guardians or eligible students without the prior written consent of the parents/guardians or eligible student.

Exceptions to FERPA's prior consent requirement include, but are not limited to, disclosure:

1. To other school officials within the District who have been determined to have legitimate educational interests.
2. To officials of another school, school system, or post-secondary institution where the student seeks or intends to enroll.
3. To authorized representatives of the Comptroller General of the United States, the U.S. Secretary of Education, the U.S. Attorney General, or state and local education authorities in connection with an audit or evaluation of a federal- or state-supported education program or in compliance with legal requirements related to those programs.
4. In connection with the student's application for or receipt of financial aid.
5. To state and local officials or authorities in compliance with state law that concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records are being released.
6. To organizations conducting studies for, or on behalf of, education agencies or institutions, in order to develop tests, administer student aid, or improve instruction.
7. To accrediting organizations to carry out their accrediting functions.
8. To parents of a dependent student, as defined by the Internal Revenue Code.
9. To comply with a judicial order or lawfully issued subpoena, including ex parte court orders under the USA Patriot Act. Prior to complying with a judicial order or subpoena, the District will make a reasonable effort to notify the parent/guardian or eligible student, unless the District has been ordered not to disclose the existence or content of the order or subpoena, or unless the parent is the subject of a court proceeding involving child dependency or child abuse and neglect matters, and the order is issued in context of that proceeding.
10. In connection with a health or safety emergency, the District will disclose information when, taking into account the totality of circumstances, a determination is made that there is an articulable and significant threat to the health or safety of the student or other individuals.
11. To teachers and school officials in other schools who have legitimate educational interests in the behavior of the student when the information concerns disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community.
12. To provide information that the District has designated as "directory information."
13. To provide information from the school's law enforcement unit records.
14. To a court, when the District is involved in legal action against a parent or student, those records necessary to proceed with the legal action.
15. To the U.S. Secretary of Agriculture, its authorized representatives from the Food and Nutrition Service, or contractors acting on its behalf, to monitor, evaluate, and measure

performance of federally-subsidized school food programs, subject to certain privacy protections.

16. To any caseworker or representative of a state or local child welfare agency or tribal organization who has the right to access a student's case plan, where the agency or organization is legally responsible for the care and protection of that student, not to be redisclosed except as permitted by law.

In any situation wherein a District staff member has a question as to whether disclosure of a record without consent is permissible in accordance with a FERPA exception, the staff member should contact the Superintendent, the appropriate Assistant Superintendent, and/or the District's legal counsel for guidance prior to disclosure.

The District will use reasonable methods to provide access to student educational records to only those authorized under the law and to authenticate the identity of the requestor. The District will use an array of methods to protect records, including physical controls, technological controls, and administrative procedures. The District will document requests for and release of records, and retain the documentation in accordance with law.

If the District enters into a contract with a third party that calls for receipt of student PII by the contractor, the agreement will include a data security and privacy plan that includes a signed copy of the Parents' Bill of Rights and addresses the following, among other contractual elements:

1. training of vendor employees regarding confidentiality requirements;
2. limiting access to PII to those individuals who have a legitimate educational interest or need access to provide the contracted services;
3. prohibiting the use of PII for any other purpose than those authorized under the contract;
4. prohibiting the disclosure of PII without the prior written consent of the parent/guardian or eligible student, unless it is to a subcontractor in carrying out the contract, or unless required by statute or court order, in which case they must provide notification to the district (unless notice is prohibited by the statute or court order);
5. maintaining reasonable administrative, technical, and physical safeguards to protect PII;
6. using encryption technology to protect PII while in motion or in its custody to prevent unauthorized disclosure;
7. breach and notification procedures.

The District will, via written agreements, designate authorized representatives who have access to educational records. The written agreement will specify how the work falls within the exception, what personally identifiable information is to be disclosed, how the educational record will be used, and that the records will be destroyed by the authorized representative once they are no longer needed for that purpose or the agreement expires.

Section 6

Whenever a student record or any material contained therein is to be made available to third persons, other than those covered by the exceptions authorized by FERPA, the parent/guardian or eligible student must file a written consent to such action. The written consent must specify the records to be released, the reasons for such release, and to whom. Upon written request, the District will provide the parent/guardian or eligible student with a copy of the record(s)

disclosed. In addition, if the parent/guardian of a student who is not an eligible student so requests, the District will provide the student with a copy of the record(s) disclosed.

Section 7

Unless specifically exempted by FERPA, all persons requesting access to such records will be required to sign a written form, which indicates the legitimate educational interest that such person has in inspecting the records. Such form will be kept with the student's file and will be maintained with the student's file as long as the file is maintained.

Additional Rights under New York State Law Related to the Protection of Student Data and Third Party Contractors

New York State Law offers parents additional rights beyond FERPA in regard to third party contractors and student PII. The District will post on its website a 'Parents' Bill of Rights for Data Privacy and Security.' The 'Parents' Bill of Rights' will establish the following:

1. Educational purpose: The use of student personally identifiable information (PII) is for educational or related purposes only.
2. Transparency: Disclosure of third party contracts and their privacy provisions.
3. Authorization: Assurance that proper authorization will be secured prior to the release of PII.
4. Security: A description of the measures in place to protect PII, without compromising the security plan.
5. Data Breach Notification: An explanation of the procedures in the event of a data breach.
6. Complaint Procedure: The District offers a complaint procedure in the event that a parent suspects a breach of student data by a third party contractor and provides information about lodging a complaint with the New York State Education Department's Chief Privacy Officer.

See policy 8635 (and regulation 8635-R), Information and Data Privacy, Security, Breach and Notification for more information on data security and breaches of PII, and 8635-E for the Parent's Bill of Rights for Data Privacy and Security.

Retention and Disposition of Student Records

The Board has adopted the Retention and Disposition Schedule LGS-1 for New York Local Government Records issued pursuant to Article 57-A of the Arts and Cultural Affairs Law, which contains the legal minimum retention periods for District records. The Board directs all District officials to adhere to the schedule and all other relevant laws in retaining and disposing of student records. In accordance with Article 57-A, the District will dispose of only those records described in the schedule after they have met the minimum retention periods set forth in the schedule. The District will dispose of only those records that do not have sufficient administrative, fiscal, legal, or historical value to merit retention beyond the established legal minimum periods.

Adoption date:

STUDENT PRIVACY

The Board recognizes its responsibility to enact policies that protect student privacy, in accordance with law. This is particularly relevant in the context of the administration of surveys that collect personal information, the disclosure of personal information for marketing purposes, and in conducting physical examinations. The Board hereby authorizes the Superintendent to establish administrative regulations, procedures, and/or protocols in relation to this policy.

For purposes of this policy, the term “parent” includes parents, legal guardians, and persons in parental relation, as defined by law. Further, the rights provided to parents under this policy transfer to the student when the student turns eighteen years old or is an emancipated minor under applicable State law.

Surveys

The Board of Education recognizes that student surveys are a valuable tool in determining student needs for educational services. In accordance with law and Board policy, parental consent is required for minors to take part in surveys that gather any of the following information:

1. political affiliations or beliefs of the student or the student's parent;
2. mental or psychological problems of the student or the student's family;
3. sex behavior or attitudes;
4. illegal, anti-social, self-incriminating or demeaning behavior;
5. critical appraisals of other individuals with whom respondents have close family relationships;
6. legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers;
7. religious practices, affiliations or beliefs of the student or the student's parent; or
8. income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program).

In the event that the District plans to survey students to gather information included in the list above, the District will obtain written consent from the parent in advance of administering the survey. The notification/consent form will also apprise the parent of their right to inspect the survey prior to their child’s participation.

Marketing

It is the policy of the Board not to collect, disclose, or use personal information gathered from students for the purpose of marketing or selling that information, or providing it to others for that purpose. Marketing does not apply to the collection, disclosure, or use of personal information collected from students for the exclusive purpose of developing, evaluating, or providing educational products, services, or therapies for or to students or educational institutions. For purposes of this policy, educational institutions shall include, but are not limited to:

1. college or other postsecondary education recruitment, or military recruitment;
2. book clubs, magazines, and programs providing access to low-cost literary products;
3. curriculum and instructional materials used in schools;

4. tests and assessments used to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information for students, or to generate other statistically useful data for the purpose of securing such tests and assessments, and the subsequent analysis and public release of the aggregate data from such tests and assessments;
5. student recognition programs; and
6. the sale by students of products or services to raise funds for school-related activities.

In the event that such data is collected by the District, disclosure or use of student personal information will be protected by the District pursuant to the requirements of the Family Educational Rights and Privacy Act (FERPA). [For guidance regarding the disclosure of “directory information,” rather than personal information, see policy 5500, Student Records and its associated regulation 5500 R, Student Records Regulation.]

Inspection of Instructional Material

Parents and eligible students shall have the right to inspect, upon request, instructional material used as part of the educational curriculum for students. “Instructional material” is defined as: “instructional content that is provided to a student, regardless of format, including printed or representational materials, audio-visual materials, and materials in electronic or digital formats (such as materials accessible through the Internet). It does not include tests or academic assessments.”

A parent who wishes to inspect and review such instructional material shall submit a request in writing to the Building Principal. The Building Principal shall make arrangements to provide reasonable access to the requested instructional material within a reasonable period of time after the written request is received.

Invasive Physical Examinations

The term “invasive physical examination” means any medical examination that involves the exposure of private body parts, or any act during such examination that includes incision, insertion, or injecting into the body. It does not include a hearing, vision, or scoliosis screening and does not apply to any physical examination or screening required or permitted under State law, including those permitted without parental notification.

Prior to the administration of any non-emergency, invasive physical examination or screening that is required as a condition of attendance, administered by the District not necessary to protect the immediate health or safety of the student or other students, and not otherwise permitted or required by state law, a student’s parent must be notified and given an opportunity to opt their child out of the exam. Hearing, vision, and scoliosis screenings are not subject to prior notification.

Notification

Parents and eligible students shall be notified of this policy at least annually, at the beginning of the school year and/or when enrolling students for the first time in the District. The District shall also notify parents and eligible students within a reasonable period of time after any substantive change to this policy.

Cross-ref: 5420, Student Health Services
5500, Student Records
8635, Information and Data Privacy, Security, Breach, and Notification

Ref: 20 USC §§1232g; 1232h
34 CFR Part 98
Education Law §903
8 NYCRR §136.3

Adoption date:

DRAFT

WORKPLACE VIOLENCE PREVENTION

The District is committed to establishing and maintaining a safe and secure workplace for employees. Workplace violence is a safety hazard to the District, its employees, and everyone in the workplace, and will not be tolerated. All employees are expected to work together to create and maintain a safe and respectful work environment for everyone.

Workplace violence is defined as any physical assault or act of aggressive behavior occurring where employees perform any work-related duty in the course of their employment including but not limited to an attempt or threat, whether verbal or physical, to inflict physical injury upon an employee; any intentional display of force which would give an employee reason to fear or expect bodily harm; intentional and wrongful physical contact with a person without their consent that entails some injury; or stalking an employee with the intent of causing fear of material harm to the physical safety and health of such employee when such stalking has arisen through and in the course of employment.

Employees are responsible for notifying the building principal or, if the employee does not work in a school building, the direct supervisor of any violent incidents or threatening behavior, including threats they have witnessed, received, or were told that another person witnessed or received. All reported acts of workplace violence will be promptly and thoroughly investigated by the principal or supervisor and appropriate action will be taken including contacting the designated Assistant Superintendent, the Safety and Security Department, the Department of Human Resources, and/or law enforcement where necessary.

As required by Labor Law §27-b, the District will develop and implement a Workplace Violence Prevention Program to comply with the law and its implementing regulations. The Program will include those elements required by law and regulation, including:

- the risk factors present in the workplace;
- the methods the District will use to prevent incidents of violence in the workplace;
- the methods and means by which the District will address specific identified hazards;
- a system to report workplace violence incidents in writing;
- a written outline for employee training; and
- a plan for annual program review and update.

In developing the Workplace Violence Prevention Program, the District will conduct an evaluation to identify likely potential risks of violence in the workplace. Authorized employee representative(s) will be involved in:

- evaluating the physical environment;
- developing the Workplace Violence Prevention Program; and
- reviewing workplace violence incident reports at least annually to identify trends in the types of incidents reported, if any, and reviewing the effectiveness of the mitigating actions taken.

Employee Notice and Training

As required by law, all employees will participate in Workplace Violence Prevention Training Program at the time of initial assignment and annually thereafter. Employees must be trained on:

- the details of the workplace violence prevention program;
- the measures they can take to protect themselves from risks of violence; and
- the specific procedures the District has implemented to protect employees (such as appropriate work practices, emergency procedures, and the use of security alarms).

Additionally, at the time of initial assignment and at least annually, employees will be informed of the requirements of Labor Law §27-b, the risk factors identified in the workplace, and the location of the District's Workplace Violence Prevention Program.

This policy must be posted where notices to employees are normally posted.

Allegations of Violations and Non-Retaliation

The process for employees to allege violations of the workplace violence prevention program to the state Commissioner of Labor, and the employment protections for doing so, is set forth in Labor Law §27-b and 12 NYCRR §800.6.

A "serious violation" of the workplace violence prevention program is the failure to develop and implement a program or address situations that could result in serious physical harm. "Imminent danger" is any condition or practice in the workplace where a danger exists which could reasonably be expected to cause death or serious physical harm immediately, or before the imminence of the danger can be eliminated through these complaint procedures.

Employees or their representatives who believe that a serious violation of the workplace violence prevention program exists or that an imminent danger exists (as defined above), must bring the matter to their supervisor's attention in writing, and must give the District a reasonable opportunity to correct the activity, policy, or practice, before notifying the Commissioner of Labor. However, such prior written notice and opportunity for correction is not required if there is an imminent danger or threat to the safety of a specific employee, and the employee reasonably believes in good faith that reporting to a supervisor would not result in corrective action.

If, after the matter has been brought to a supervisor's attention and a reasonable opportunity to correct the issue has passed, the issue has not been resolved and the employee still believes that a violation of the workplace violence prevention program remains or that an imminent danger exists, employees or their representatives may request an inspection from the Commissioner of Labor in writing. The Commissioner will provide a copy of the request to the District, but the employee may request that their name be withheld.

A District representative and authorized employee representative may accompany the Commissioner of Labor during the inspection to assist in the inspection. If there is no authorized employee representative, the Commissioner will consult with District employees concerning workplace safety.

The District will not take retaliatory action (terminate, suspend, demote, penalize, discriminate, or other adverse employment action in the terms and conditions of employment) against any employee because they have alleged a serious violation of the workplace violence prevention program or imminent danger exists, requested an inspection by the Commissioner of Labor, or accompanied the Commissioner on the inspection, as prescribed by state law and regulation.

Cross-ref: 5300, Code of Conduct
8130, School Safety Plans and Teams

Ref: Labor Law §27-b
12 NYCRR §800.6

Adoption date:

DRAFT

ADMINISTRATIVE REGULATIONS

Policy Implementation

The Superintendent of Schools and administrative staff are responsible for the implementation of Board Policies. As such, the Board hereby designates the Superintendent with the authority to formulate any Administrative Regulations necessary to ensure the implementation of Board Policy.

The Board shall evaluate the effectiveness of the administration's implementation of its policies.

Administration in the Absence of a Policy

Through Board Policy, the Board tries to anticipate critical policy issues that may affect District students and the operation of the District's schools. However, the Board recognizes that situations may arise in the day-to-day operations of the schools that are not addressed in Board Policy and/or Administrative Regulations. When resolution of such issues demands timely action, the Superintendent and/or designee(s) thereof shall have the authority to act on behalf of the District.

It shall be the duty of the Superintendent to inform the Board promptly of such action and, if required, the need for a Board Policy and/or Administrative Regulation.

Adoption date: July 20, 2011

Revised:

CODE OF CONDUCT

It is the goal of the Yonkers Public Schools to provide an excellent educational program for all of its students in a school environment that is free from disruptions that interfere with the educational process and cultivates a positive school climate, supports social and emotional development, and effectively address the diverse needs of the school population. The Yonkers Public Schools Code of Conduct is developed by the Board of Education in collaboration with student, teacher, administrator, and parent organizations, school personnel, including school safety personnel, and community organizations in accordance with all applicable state and federal laws and regulations as well as Board policy. The Code of Conduct governs the conduct of all students, teachers, other school personnel, and visitors, including parents. Its purpose is to set expectations for the maintenance of a safe, civil, and caring environment on school property and at school functions and provide for the enforcement of these expectations.

The Board will review the Code of Conduct yearly and update it as necessary. The Board will hold at least one public hearing before adopting any revisions to the Code of Conduct. The Code of Conduct and any amendments to it will be filed with the New York State Commissioner of Education, in the manner prescribed by the Commissioner, no later than thirty (30) days after its adoption.

The complete Code of Conduct can be found on the Yonkers Public Schools website at the links below:

[Code of Conduct](#)

[Código de Conducta](#)

Ref: Education Law §§10-18 (The Dignity for All Students Act); 1708; 2801; 3214
8 NYCRR §§19.5; 100.2(1)
20 USC §7961

Adoption date: July 20, 2011
Revised: September 19, 2012
Revised: November 18, 2020
Readopted:

SCHOOL SAFETY AND EDUCATIONAL CLIMATE (SSEC) REPORTING

The Board of Education is committed to promoting and maintaining the safety of all students, staff, and visitors to the schools. The Board is also committed to maintaining a school environment that is free from harassment, bullying, and discrimination. Consistent with these commitments and in accordance with state law and regulation, the District will submit an annual report to the Commissioner of Education regarding violent and disruptive incidents and material incidents of harassment, bullying, and discrimination, as part of the New York State Education Department's School Safety and Educational Climate (SSEC) Summary Data Collection. In addition, the Board will use this data to assess the safety and educational climate of its schools and, where appropriate, identify and take steps to improve the safety, security, and well-being of its students, staff, and visitors.

Reporting Requirement

Building Principals are responsible for ensuring all violent and disruptive incidents as well as material incidents of harassment, bullying, and discrimination, which have occurred on school grounds, at a school function, or at a school-sponsored event, are properly entered into the District's student information system. The Superintendent of Schools and/or designee(s) thereof shall review such data on a regular basis. The Department of Safety and Security will then compile this data and generate a report as part of the end of year reporting provided to the Superintendent in June of each school year. The Superintendent or designee thereof will ensure the annual summary report contains all the information required by law and is filed with the Commissioner on or before the basic educational data system (BEDS) reporting deadline or such other date set by the Commissioner.

Additionally, Building Principals are required to provide a regular report on data and trends related to harassment, bullying, and/or discrimination to the Superintendent at least once during each school year.

Record Retention

The District is responsible for assuring that copies of each SSEC report, both individual and summary reports, are retained in accordance with the Retention and Disposition Schedule LGS-1 for New York Local Government Records. Individual incident report forms will not be kept in a student's cumulative folder nor sent to the next school or district the student attends. The District, in consultation with the District's legal department and/or attorney(s), shall contact State Archives with any questions regarding the retention of school violence and dangerous school records.

Confidentiality

Any violent or disruptive incident or harassment, bullying, and discrimination report prepared in accordance with law shall be available for inspection by the State Education Department upon request. All names and other personally identifiable information included in any report are confidential and shall not be disclosed to any person for use by any person for

purposes other than the reporting purposes in Education Law §2802, except as otherwise authorized by law.

Cross-ref: 0115, Student Harassment and Bullying Prevention and Intervention

Ref: Education Law §§10-18; 2802
Local Government Records Law, Article 57-A
8 NYCRR §§100.2(gg); 185.15 (Appendix L)

Adoption date:

PURCHASING

The function of purchasing is to serve the educational program by providing the Yonkers City School District (the "District") with necessary supplies, equipment, and related services. In accordance with the Intermunicipal Agreement ("IMA") between the District and the City of Yonkers (the "City"), effective June 16, 2014, the purchasing function of the District shall be centralized in the City, through its Purchasing Department ("Purchasing"). No Board member, officer, or employee of the District shall have an interest in any contract entered into by the Board and/or the District, as provided in Article 18 of the General Municipal Law (GML).

The Superintendent of Schools in collaboration with the City's Commissioner of Finance and/or their respective designee(s) shall be responsible for establishing and implementing regulations, procedures, and standard forms for use in all purchasing and related activities in the District. Such regulations, procedures, and standard forms shall comply with all applicable local, state, and federal laws, regulations, rules, and/or guidelines having jurisdiction over such matters. Purchasing shall manage the District's purchasing process.

It is the goal of the Board of Education (the "Board") to purchase competitively, without prejudice or favoritism, and to seek the maximum educational value for every dollar expended. It is the responsibility of Purchasing to procure all goods and services in a manner that guards against favoritism, improvidence, extravagance, fraud, and corruption and foster honest competition in order for the District to obtain the best goods and services at the lowest possible price.

All District purchases shall be made pursuant to law as well as Board policy, regulations, and/or procedures. Prior to commencing the procurement of materials, equipment, supplies, and/or the awarding of public work contracts, the District shall make a determination as to whether such procurement must be made in accordance with the bidding requirements of the GML through Competitive Sealed Bidding wherein responsible bids have been received pursuant to a public advertisement soliciting formal bids. If the procurement is exempt from the bidding requirements of the GML, the procurement shall be made in a manner that is not only consistent with the applicable budget, but also in accordance with District regulations and/or procedures (see 6700 R, Purchasing Regulation).

In accordance with law, the District shall give preference in the purchase of instructional materials to vendors who agree to provide materials in alternative formats. The term "alternative format" shall mean any medium or format for the presentation of instructional materials other than a traditional print textbook that is needed as an accommodation for a disabled student enrolled in the District and shall include, but is not limited to, Braille, large print, open and closed captioned, audio, or an electronic file in a format compatible with alternative format conversion software that is appropriate to meet the needs of the individual student.

The Board is also aware of the need to reduce exposure of students and staff to potentially harmful chemicals and substances used in cleaning and maintenance. In accordance with law, regulation, and guidelines set forth by the Office of General Services (OGS), the District will purchase and utilize environmentally sensitive cleaning and maintenance products in its facilities whenever feasible.

The Board, as permitted under the law, will strive to meet the following objectives in its purchasing of goods and services:

1. ensure prudent and economical use of public monies in the best interest of the taxpayers;
2. acquire goods and services of maximum quality at the lowest possible cost under the circumstances;
3. guard against favoritism, improvidence, extravagance, fraud, and corruption;
4. obtain materials, supplies, and contracted services at the lowest prices possible, consistent with the quality and standards needed;
5. ensure all purchases fall within the framework of budgetary limitations and are consistent with the educational goals and programs of the District;
6. maintain an appropriate and comprehensive accounting and reporting system to record and document all purchasing transactions;
7. ensure, through the use of proper internal controls, that loss and/or diversion of District property is prevented;
8. effectively supply all administrative units in the school system with needed materials, supplies, and contracted services; and
9. take the educational welfare of the pupils into consideration when making any purchase.

Opportunities shall be provided to all responsible suppliers to do business with the District. When allowable under the law and only when bids or quotations on an item or service are identical as to price, quality, and other factors, suppliers whose place of business is situated within the District may be given preferential consideration.

Ref: Education Law §§305(14); 409-i; 1604(29-a); 1709(9),(14),(22); 2503(7-a); 2554(7-a)
 General Municipal Law §§100 - 109-a; 800 - 813
 Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Public Law 111-195)
 8 NYCRR Par 114
 State Finance Law §§97-g(3), (4), (5); 163; 163-b; 165-a

Adoption date: May 8, 2007
 Revised: July 20, 2011
 Revised: December 16, 2020
 Readopted:

PURCHASING REGULATION

Pursuant to the terms of the Intermunicipal Agreement (“IMA”) between the Yonkers City School District (the “District”) and the City of Yonkers (the “City), effective June 16, 2014, the City, through its Purchasing Department (“Purchasing”), manages the District’s purchasing process. This Regulation sets forth the procedures for the procurement of goods and services for the District, in compliance with the terms of the IMA.

Section 1. Statement of Purpose

This Regulation shall apply to all procurements commenced on or after the date of adoption of this document. The Board shall ensure that all goods and services are procured in compliance with the competitive bidding requirements of New York State General Municipal Law (“GML”) Section 103 and/or pursuant to express procurement procedures provided for under any other federal or state law applicable to such procurement. Procurements not subject to the GML shall be procured in a manner that:

1. is consistent with the applicable budget;
2. encourages the prudent and economical use of public monies in the best interest of the taxpayers;
3. facilitates the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances; and
4. guards against favoritism, improvidence, extravagance, fraud, and corruption.

Section 2. Determination Required

The District, prior to commencing a procurement of materials, equipment, supplies, and/or the awarding of public work contracts, shall determine whether such procurement must be made in accordance with the competitive bidding requirements of GML Section 103 through Competitive Sealed Bidding (“CSB”) or the procurement is exempt from such requirements. For each procurement, the Director of Purchasing (the “Director), in conjunction, to the extent applicable, with the Office of the Corporation Counsel (the “Law Department”), shall make this determination. If it is determined that the bidding requirements of GML Section 103 do not apply, the Director or his/her/their designee shall document the reason(s) why competitive bidding is not required and, if applicable, any determination that such procurement is not subject to any of the requirements set forth in this regulation. As used herein, the term “Procuring Officer” shall mean the Director or, as applicable, the individual or individuals in Purchasing authorized by the foregoing to undertake the procurement.

Section 3. Application

A. Competitive Sealed Bidding

1. Under GML Section 103, CSB is required for all contracts for public work (contract for services, labor, and/or construction of new facility, facility rehabilitations and/or renovations) involving an expenditure of more than \$35,000 and all purchase contracts (contracts for materials, equipment, supplies, and/or services) involving an expenditure of more than \$20,000. CSB must be awarded to the lowest responsible bidder after bids have been received in response to a public advertisement soliciting formal bids.
2. CSB is required when Purchasing, based on historical spending or projected needs, reasonably expects that the aggregate amount to be spent in a fiscal year for the same or similar type of commodities or public work contracts will exceed the bidding thresholds. Specifically, Purchasing must group together similar commodities and services acquired in a twelve-month period for the purpose of determining whether formal competitive bids must be solicited.
3. CSB is required regardless of whether the purchase is made utilizing operating funds, funds for capital improvement, donations, and/or Federal or New York State grants.
4. Purchasing, in consultation with the appropriate District department(s), shall ensure that all scopes of work and/or bid specifications pursuant to CSB meet the requirements below. The scope of work and/or bid specifications must:
 - a. contain sufficient information for all vendors to provide a formal sealed bid on an equal playing field;
 - b. provide the standards by which all bidders will be measured;
 - c. assure bidders that they will be competing on a common and equal basis;
 - d. include a precise description of the physical or functional characteristics of the commodity and/or service, provided that the specifications are not unduly restrictive so as to limit competition;
 - e. include a statement, as required by GML Section 103-g, reflecting the District's responsibilities under the Iran Divestment Act of 2012;
 - f. not require bidders be located within certain boundaries or that a product be made in the United States of America;
 - g. not specify a particular brand at the exclusion of others; however, brand name products may be specified to the exclusion of others if the Board has adopted a standardization resolution for reasons of efficiency or economy;
 - h. in the case of a procurement made pursuant to grant funds, include any additional or specific conditions of the grant expenditure; and

- i. in the case of a public work contract, be in compliance with the New York State Department of Labor (“DOL”) guidelines and Westchester County Law regarding, but not limited to, minimum pay rates, worker certification requirements, obtaining a DOL case number, bid security requirements, contract performance, labor, and material bonding requirements, and providing the required DOL notifications.
5. The District shall advertise all CSB in an official newspaper (e.g., Journal News and/or Yonkers Rising) for a minimum of five (5) days prior to the opening of bids.
6. Purchasing shall review all bids and determine whether the bid is responsive and the bidder is responsible.
 - a. A bid is considered responsive when the bid conforms to the technical, legal, and business requirements of the CSB process.
 - b. A bid shall be deemed non-responsive when it does not comply with the bid specifications, contains any deviation that affects the price, delivery, quality, or quantity of the goods or services to be furnished, and/or conflicts with the District’s standard terms and conditions. Examples include, but are not limited to, bids that qualify pricing, are valid for less than ninety (90) days, are uncertain or ambiguous, or do not conform to delivery requirements.
 - c. A bidder is considered responsible if the District has determined the bidder has, among other things, the integrity, skill, experience, facilities, financial resources, and stability to successfully fulfill the requirements of the CSB process.
 - d. A bidder is considered not responsible if the bidder fails to meet the District’s standards and includes, but is not limited to, bidders who have a history of poor performance on contracts of a similar nature with Yonkers and/or other municipalities, have been debarred, are in tax arrears, or have criminal or civil sanctions.
7. The District must award the contract to the lowest responsive and responsible bidder at a firm, fixed price for the duration of the contract term. Any bid deemed non-responsive and/or bidder deemed not responsible shall be rejected, even if it is the apparent lowest bidder.
8. After sealed bid is opened, a bidder may not materially amend its bid, even to conform to the original specifications. However, a bid may be withdrawn, within three (3) days after bid opening, when a bidder can demonstrate there was a unilateral error or mistake that was based on an error of such magnitude that enforcement would be unconscionable, the mistake was a clerical error and submits credible evidence, the error was due to an unintentional and substantial mathematical error that can be proven, and/or the error was due to the unintentional omission of a substantial quantity of work, labor, goods, or services.

9. The CSB process requires bidders to include a firm fixed price in its bids and the District may not negotiate with any bidder regarding their offer. However, based on the lowest responsive bid, the District may engage in post-bid “negotiations” with the bidder entitled to the contract award in an effort to gain cost concessions if: (1) there is no material departure from the specifications; (2) no favoritism is granted; and (3) the public interest is advanced through price reductions.
10. Purchasing may reject all bids and re-advertise when the lowest responsible bid exceeds the District’s budget, the integrity of the bidding process is in question, and/or the original bid specifications were ambiguous or essential information was missing.

B. Procurements Exempt from Competitive Bidding Requirements

1. Procurements of goods and services which are not required to be made pursuant to the competitive bidding requirements of the GML or any other general, special, or local law shall be procured in a manner so as to assure the prudent and economical use of public moneys in the acquisition of goods and services of maximum quality at the lowest possible cost.
2. Except as exempt by law, the District shall secure alternative proposals or quotations for goods and services through written requests for proposals, written quotations, verbal quotations, or any other method of procurement which furthers its ability to obtain the best offer available.
3. Purchasing, through the efforts of the Procuring Officer, shall review all proposals or quotations received, evaluate each offer, and determine which offer is most advantageous to the District. Purchasing shall also maintain adequate documentation of actions taken in connection with procurements for the District.
4. Procurements below \$100,000¹ shall be awarded as follows:
 - a. For a procurement of goods or services reasonably expected to cost less than \$5,000, the Procuring Officer shall exercise sound business judgment in order to enter into a contract with the offeror determined to be most advantageous to the District.
 - b. For a procurement of goods or services reasonably expected to cost between \$5,000 and \$25,000, the Procuring Officer shall exercise sound business judgment and shall use best efforts to obtain written or oral quotations from three (3) entities with appropriate qualifications and/or experience. The Procuring Officer shall make and retain a sufficient written record of the names, addresses, and phone numbers of all entities from whom quotations were

¹ When determining whether an expenditure falls within any applicable threshold, the Procuring Officer should consider the reasonably expected aggregate amount of all purchases of the same commodities, services, or technology to be made within any given twelve (12) month period.

sought, as well as the date and amount of each quotation received, and make a recommendation to enter into a contract with the offeror determined to be most advantageous to the District.

- c. For a procurement of goods or services reasonably expected to cost more than \$25,000 and less than \$100,000, the Procuring Officer shall use best efforts to obtain written quotations from three (3) entities with appropriate qualifications and/or experience. All entities contacted shall be provided a scope of work and/or specifications sufficient to provide a written price quote and/or proposal. The Procuring Officer shall take and retain a written record documenting procurement efforts, consider the quotations received, evaluate each offeror's qualifications and/or experience, and determine the offer most advantageous to the District. The Procuring Officer shall recommend contracting with the offeror making the offer determined to be most advantageous to the District.

5. Procurements \$100,000 and above shall be awarded as follows:

- a. For goods or services reasonably expected to cost \$100,000 or more, the Procuring Officer shall, except as otherwise set forth herein, solicit proposals through a request for proposals ("RFP") process. The RFP shall include:
 1. the time and date for receipt of proposals, the address of the office to which the proposals are to be delivered, and the name of the contact person;
 2. a sufficient scope of work and/or specifications, such as detailed description of the required goods or services; and
 3. the criteria on which the selection will be evaluated.
- b. The Procuring Officer shall cause the proposals to be opened and distributed to such other persons designated to assist in its evaluation.
- c. The Procuring Officer may reject any proposal which does not conform in all material respects to the RFP, is deemed insufficient, or is submitted by a proposer determined to not be responsible. In the event that the Procuring Officer determines that no proposal is satisfactory, the Procuring Officer may reject all proposals and issue a new RFP or abandon the procurement.
- d. After evaluation of all proposals, the Procuring Officer shall rank, in order of preference, all proposers based on the evaluation criteria specified in the RFP. The Procuring Officer shall document said evaluation and ranking.
- e. The Procuring Officer, with the assistance of Purchasing and/or the Law Department, shall negotiate the essential terms and conditions of a contract with the first ranked proposer. Should the Procuring Officer and/or the Law Department be unable to negotiate a satisfactory agreement with the first ranked proposer, the Procuring Officer shall (i) continue negotiations with additional

proposers in rank order until an agreement is reached, or (ii) terminate the procurement process.

- f. After reaching an agreement with a proposer, the Procuring Officer shall, in writing, recommend approval of a contract with the proposer determined to be most advantageous to the District, except as otherwise provided herein.

Section 6. Exceptions

It is acknowledged that all exemptions from competitive bidding, set forth in applicable law, apply herein. Particularly, the District is exempt from competitive bidding when contracting for professional services or services requiring special or technical skill, training, or expertise as the required qualifications do not readily lend themselves to inflexible competitive procurement procedures. Further, in certain instances, compliance with the Section 3(B) above may not be in the best interest of the District. In such cases, as set forth below, the individual or company must be chosen based on accountability, reliability, responsibility, skill, education and/or training, judgment, integrity, and moral worth.

Notwithstanding the foregoing, it is acknowledged and agreed that the Procuring Officer shall comply with the objectives of this Regulation set forth in Section 1 above. The Procuring Officer shall make and maintain a written record supporting his/her/their recommendation to contract and documenting the efforts made to comply with the objectives herein. Said record may include, but is not limited to, market price comparisons or the methods used to test the market, such as inquiring of other municipalities or districts or the use of the Empire State system. In compliance with applicable law, the following shall be exempt from competitive bidding:

1. contracts with expert witnesses for use in, or in anticipation of, an adjudicatory proceeding or litigation;
2. contracts with medical or health-related entities, including without limitation psychiatric workers and veterinarians;
3. contracts with lecturers, other educational professionals or experts, and institutions;
4. contracts with the following professionals: lawyers; accountants; auditors; financial advisors; information technology advisors; real estate brokers; recruitment agencies for professionals; planners and landscape architects. In the event that a determination is made that seeking competition in the procurement of the foregoing professionals would not be in the best interest of taxpayers, the head of the department requesting the professional service shall provide the Director a completed Request for Non-Competitive Contract Form providing sufficient justification in support of such contract;
5. procurements which involve the expenditure of federal or state assistance where and to the extent that federal or state law, rules, or regulations conflict with the provisions of this Regulation;

6. contracts with not for profit organizations for the support, enhancement, or preservation of cultural resources and the arts;
7. contracts with not for profit organizations for the purposes of providing aid, care, and support to persons in need;
8. contracts with recipients for the disbursements of grants or loans under the Community Development Block Grant, Emergency Shelter, or HOME Programs;
9. contracts with entities for the creation and support of recreation projects, youth service projects, and other appropriate programs and services for the prevention of delinquency and youth crime and the advancement of the moral, physical, mental, and social well-being of the District's youth;
10. contracts with entities to provide services to senior citizens including without limitation, for care, counseling, referral, case management, social and nutritional support, and other essential outreach services including grant funded contracts;
11. contracts for advertising, including public notices;
12. contracts for title insurance or title examination services;
13. contracts with banks and financial institutions licensed or chartered to do business in the State of New York;
14. contracts with another municipal corporation to perform services "one for the other" (see GML Section 119-o, see also the Highway Law);
15. contracts for real property leases (not inclusive of leases for personal property), licenses, and concessions and/or dispositions;
16. shared services obtained through another municipal entity, such as the County of Westchester. It should be noted that contracts requiring an RFP pursuant to Section 3(B)(5) above may rely upon an RFP issued by such other entity if said procurement is deemed timely and sufficient by the Director, applicable department head, and the Law Department; and
17. contracts deemed to be in the best interests of the District; however, any such request for this exemption shall be made by submission of a written recommendation, including sufficient justification by the department head/Procuring Officer to the Director certifying that such exemption is necessary and appropriate in order to further the best interests of the District. The Board of Contract and Supply ("BOCS") and/or the Board, as may be appropriate, has the express authority hereunder to approve or reject any such recommendation, it being recognized that the purpose hereof is always to encourage the prudent and economical use of public monies, while facilitating

acquisition of quality goods and services at the lowest cost under and to guard against favoritism, improvidence, extravagance, fraud, and corruption.

Section 7. Prequalification of Professionals and On-Call Contract List

- A. Contracts with certain professionals, in addition to any other applicable Section herein, may be procured via the procedures set forth below.
1. A prequalification committee (the “Pre-Qual Committee”) shall be formed consisting of a representative or representatives from the applicable department(s) and Purchasing. Said Pre-Qual Committee may prepare a uniform request for qualifications (“RFQ”) form to be distributed and made widely available to interested professionals in the applicable field. Said RFQ should request information sufficient to enable the Pre-Qual Committee to evaluate the professionals in areas such as, but not limited to, expertise, previous work, quality of work, typical rates (per job title, unit, etc.), adequacy of personnel and/or workload capability, and/or financials.
 2. A selection committee (the “Selection Committee”) may be formed including, without limitation, a representative or representatives from the applicable department(s) and Purchasing to evaluate the RFQ submissions. The Selection Committee will identify qualified professionals to be included on the eligible provider list (the “Pre-Qual List”), which will be maintained by the Director. The Pre-Qual List will be updated from time to time, at minimum annually, to ensure accurate information and include additional interested qualified professionals.
 3. Any department seeking the services of such a professional may send a request to the Director. The Director and/or requesting department’s designee will evaluate the appropriate Pre-Qual List and select three (3) eligible professionals. The Director will prepare and distribute a uniform project description to said professionals requesting a written estimated project budget as well as any additional information deemed necessary and appropriate, such as current staffing and/or workload capacity. The Director and/or department designee, along with such other parties deemed appropriate, shall evaluate the responses received. The Procuring Officer shall document the results and recommend contracting with the vendor making the offer determined to be most advantageous to the District.
- B. In addition to the foregoing, for procurements of professional services reasonably expected to cost less than \$100,000, the Selection Committee may, based on the results of the RFQ process, recommend that the District enter into one or more contracts with the professional(s) selected on an on-call/file price basis. The Director will maintain a list of all “on-call” contracts. Any department seeking the services of a professional with an “on-call” contract may send a request to the Director. The Director and/or Procuring Officer will evaluate the “on-call” list and select the eligible professional determined to be most advantageous to the District.

Section 8. Emergency Procurements

Pursuant to GML Section 103(4), it is recognized that certain contracts must be procured immediately in order to protect District property from further loss or damage or prevent or minimize serious disruption in District services, and a delay in order to seek alternate offers may threaten public life, health, safety, or welfare. In the event of such an emergency, the Procuring Officer shall complete the emergency certification form. The form shall be forwarded to the Director as soon as possible following the procurement to advise of said emergency procurement. The Director will advise the Board as well as the BOCS of any such procurement at its next practicable meeting. Nothing in this Section shall preclude the District from securing alternate proposals if time permits.

Section 9. Sole Source Procurements

A Procuring Officer may recommend awarding a contract when, after reasonable investigation, the Procuring Officer determines that only one practicable source for the required goods or service exists. The Procuring Officer shall document such sole source procurement, specifying the contractor's name and the basis for the determination that the contractor was the only practicable source for the required supply or service. The Procuring Officer shall submit his/her/their recommendation to the Director for review. The Director will make the final determination whether such procurement is recommended.

Section 10. Miscellaneous

- A. Records: Procurements hereunder shall be documented and shall include all applicable records (created or received), as well justification for any recommendation(s) made. Electronic or PDF copies of any such records are acceptable. Such written records shall be maintained in the Procuring Officer's files and/or forwarded to the Director for retention.
- B. Number of Responses: In the event that the identified number of quotations or proposals are not received, the Procuring Officer should use sound business judgment to determine if additional efforts are required to meet the objectives hereof. If the Procuring Officer determines that such additional efforts will not further District Policy or this Regulation, a statement shall be included in the recommendation explaining such determination.
- C. Scope of Work/Services: To encourage competition and a level playing field, the Procuring Officer shall ensure that all entities solicited are given the same information and updates thereto, if any.
- D. Negotiation: If the District is unable to successfully negotiate an agreement with a firm, company, individual, or professional selected hereunder, the District may commence negotiations with the next ranked firm, company, individual, or professional.
- E. Best Value: It is acknowledged that, in accordance with GML Section 103(16), in addition to letting contracts to the lowest responsible bidder, the District may, following the adoption of a resolution, let bid contracts on the basis of "best value." If the Procuring Officer recommends an offeror who did not offer the lowest net cost or the greatest net revenue, if net revenue is projected, the Procuring Officer shall document, in writing, why the proposed contract award

further the purposes of District Policy and this Regulation. In assessing an offer, a best value standard may be used, which includes analysis of non-price factors such as the reliability of a product, efficiency of operation, difficulty/ease of maintenance, useful lifespan, ability to meet needs regarding timeliness of performance, and experience of a service provider with similar contracts. The Procuring Officer's written procurement records must reflect such analysis. The Procuring Officer shall submit his/her/their recommendation to the Director for review. The Director will make the final determination whether such procurement is recommended.

- F. Green Purchases: Energy efficiency may be considered as a part of a "best value" analysis. Additionally, in recognition of the long-term benefits, the District is permitted by law to provide a preference for "recycled products."
- G. Environmentally-Sensitive Cleaning and Maintenance Products: All elementary and secondary schools must purchase and use environmentally-sensitive cleaning and maintenance products that are available in the form, function, and utility generally used by schools in accordance with the law, regulation, and guidelines established by the New York State Office of General Services (OGS) and Education Department (SED). Cleansers purchased must, first and foremost, be effective so that the District may continue to purchase non-green products as necessary. Environmentally sensitive cleaning and maintenance products will be procured in accordance with standard purchasing procedures as outlined in this Regulation. Nothing herein shall be interpreted to contravene such requirements.
- H. School District Requirements: It is expressly acknowledged that the District, pursuant to law, is subject to certain special procurement requirements and the District shall adhere to such requirements in accordance with the law.
- I. Apparel or Sports Equipment: Notwithstanding any other provision of law or hereunder, the District shall have the authority to include in the internal policies and procedures governing procurement of apparel or sports equipment, where such procurement is not required to be made pursuant to the competitive bidding requirements of GML Section 103, a prohibition against the purchase of apparel or sports equipment from any vendor based upon either or both the following considerations: (a) the labor standards applicable to the manufacture of the apparel or sports equipment including, but not limited to, employee compensation, working conditions, employee rights to form unions, and the use of child labor; or (b) the bidder's failure to provide information sufficient for boards of education to determine the labor standards applicable to the manufacture of the apparel or sports equipment.
- J. Evaluations: The District reserves the right to apply the case law and interpretations developed under GML Section 103 in connection with the evaluation of submissions herein including, without limitation, with respect to determining whether a proposer is a responsible vendor.
- K. Forms: All RFPs and RFQs shall contain a statement of non-collusion and a disclosure form or background questionnaire which must be reviewed by the Procuring Officer when evaluating the submission.

- L. Approvals: Contracts proposed in accordance herewith remain subject to receipt of all applicable approvals including, without limitation, that of the City Council, BOCS, and/or Board.
- M. Preferred Source: Pursuant to New York State Finance Law (see Section 162), in order to advance special social and economic goals which accords certain providers with preferred source status, it is expressly acknowledged that procurements of commodities and/or services, when available in the form, function, and utility required by the City or the District, are required to be made from preferred sources and are not subject to competitive procurement requirements.
- N. Electronic Submission: In accordance with New York State law, the District may elect to accept electronic submission of bids (pursuant to GML Section 103), RFPs, and RFQs.
- O. Compliance with Law: Except for procurements made pursuant applicable law including, without limitation the GML, NYS Finance Law, or Correction Law, it is expressly acknowledged that alternative proposals or quotations for goods and services shall be secured by use of written requests for proposals, written quotations, verbal quotations, or any other method of procurement in accordance herewith.

The unintentional failure to comply with the provisions herein or the GML will not be grounds to void the transaction or give rise to a cause of action against the City, the District, or any of their respective officers, elected officials, or employees.

If any provision herein is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of this regulation shall in no way be affected, impaired, or invalidated, and, to the extent permitted by applicable law, any such provision shall be restricted in applicability or reformed to the minimum extent required for such to be enforceable.

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Readopted: