

Policy 3600: Consultants**Status:** Board Approved 5/17/21**Original Adopted Date:** 01/01/1985 | **Last Revised Date:** 03/01/2021 | **Last Reviewed Date:** 10/01/1996

The Governing Board authorizes the use of consultants and other independent contractors to provide expert professional advice or specialized technical or training services which are not needed on a continuing basis and which cannot be provided by district staff because of limitations of time, experience, or knowledge. Individuals, firms, or organizations employed as independent contractors may assist management with decisions and/or project development related to financial, economic, accounting, engineering, legal, administrative, instructional, or other matters.

As part of the contract process, the Superintendent or designee shall determine that the individual, firm, or organization is properly classified as an independent contractor.

A person providing labor or services for remuneration shall be considered an employee rather than an independent contractor unless the district is able to demonstrate that all of the following conditions have been met: (Labor Code 2775)

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

The determination of whether an individual acting as a sole proprietor or a firm or other business organization is an independent contractor shall be made in accordance with Labor Code 2775-2785, as applicable.

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

All qualified independent contractors shall be accorded equal opportunity for contracts regardless of actual or perceived race, ethnicity, color, national origin, ancestry, age, religious creed, marital status, pregnancy, physical or mental disability, medical condition, genetic information, veteran or military status, sex, sexual orientation, gender, gender identity, gender expression, immigration status, or association with a person or group with one or more of these actual or perceived characteristics. (Education Code 220; Government Code 12940)

Independent contractors shall submit a written conflict of interest statement disclosing financial interests as determined necessary by the Superintendent or designee, depending on the range of duties to be performed by the consultant. The Superintendent or designee shall consider this statement when deciding whether to recommend approval of the contract.

Any consultant hired by the district who is subject to the filing requirements in the district's conflict of interest code shall file a Statement of Economic Interests within the time period required by law. (Government Code 87302)

When employees of a public university, county office of education, or other public agency serve as consultants or independent contractors in other capacities for the district, they shall certify as part of the agreement that they will not receive salary or remuneration other than vacation pay from any other public agency for the specific days when they work for the district.

The Board prohibits the harassment of an independent contractor by any district employee or by any other person with whom the independent contractor comes in contact during the course of employment with the district. Additionally, the Board prohibits the harassment of a district employee by an independent contractor. Any complaint of harassment shall be investigated and resolved in accordance with applicable district complaint procedures. (Government Code 12940)

Policy Reference Disclaimer: These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State References

2 CCR 18700-18760

Ed. Code 10400-10407

Ed. Code 17596

Ed. Code 220

Ed. Code 35010

Ed. Code 35172

Ed. Code 35204

Ed. Code 44925

Ed. Code 45103

Ed. Code 45103.5

Ed. Code 45134-45135

Ed. Code 45256

Gov. Code 12940-12952

Gov. Code 53060

Gov. Code 82019

Gov. Code 87300-87313

Lab. Code 2750.3

Unemp. Ins. Code 606.5

Unemp. Ins. Code 621

Description

Conflicts of Interest -

<https://simbli.eboardsolutions.com/SU/h6CnVsMHk2STR4xUUuLXdQ==>

Cooperative improvement programs -

<https://simbli.eboardsolutions.com/SU/7fvn0nUuu7rwqQl0ax6FRA==>

Limit on continuing contracts

Prohibition of discrimination

Control of district; prescription and enforcement of rules

Promotional activities

Contract with attorney in private practice

Part-time readers employed as independent contractors

Classified service in districts not incorporating the merit system

Contracts for management consulting services; restrictions

Employment of retired classified employee

Merit system districts; classified service; positions established for professional experts on a temporary basis

Unlawful employment practices

Special services and advice

Definition, designated employee -

<https://simbli.eboardsolutions.com/SU/zplus8Q3o2R2NLwPmnxGAmkxg==>

Conflict of interest code -

<https://simbli.eboardsolutions.com/SU/YaQbxMYA749OVplusgURs6YDA==>

ABC three-part test: employees and independent contractors

Determination of employment status -

<https://simbli.eboardsolutions.com/SU/vunJ6ZjAgfPAIsPuyTf9slshA==>

Employer and employee defined -

<https://simbli.eboardsolutions.com/SU/OZhUQFP2kaV5yBqJXD8TgQ==>

Management Resources References

Court Decision

Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018) 4 Cal. 5th 903

Court Decision

S.G. Borello & Sons, Inc. v. Department of Industrial Relations (1989) 48 Cal. 3d 341

Cross References

0410

Nondiscrimination In District Programs And Activities -

<https://simbli.eboardsolutions.com/SU/xTNSlzPFerwldgEuuswAWw==>

0415

Equity -

<https://simbli.eboardsolutions.com/SU/UslshnOG8fst4H5nrT6719Llw==>

3312

Contracts -

<https://simbli.eboardsolutions.com/SU/Xrjuibfnt9vHXHRbfd2oWA==>

3470

Debt Issuance And Management -

<https://simbli.eboardsolutions.com/SU/0RleSE2v1irwWNkUpOllgQ==>

3515.6

Criminal Background Checks For Contractors -

<https://simbli.eboardsolutions.com/SU/mZWfKCzfGhiplusVEWRGGMlQg==>

4030	Nondiscrimination In Employment - https://simbli.eboardsolutions.com/SU/Ftuqqeslsh5LXEruOfhDETWtQ==
4030	Nondiscrimination In Employment - https://simbli.eboardsolutions.com/SU/sDeiAs1i8TbY6fQrjoqHdQ==
4112.23	Special Education Staff - https://simbli.eboardsolutions.com/SU/7K45eY0VoGFy17fPtZliplusg==
4117.14	Postretirement Employment - https://simbli.eboardsolutions.com/SU/9qMFaqkaMGbANozGYeMuiQ==
4119.11	Sexual Harassment - https://simbli.eboardsolutions.com/SU/kdLELslsh9Tcslsh6GBW7ejplusgh9A==
4119.11	Sexual Harassment - https://simbli.eboardsolutions.com/SU/kdrQtj2nwF1qSPf7G6yF3w==
4132	Publication Or Creation Of Materials - https://simbli.eboardsolutions.com/SU/kMPAQQBWsHgu0aO4q0Prsw==
4219.11	Sexual Harassment - https://simbli.eboardsolutions.com/SU/qUpGT617RRKsTkVVSBO1ZA==
4219.11	Sexual Harassment - https://simbli.eboardsolutions.com/SU/QDnRF5Oy74K9sgUSAwVNTg==
4232	Publication or Creation of Materials - https://simbli.eboardsolutions.com/SU/UpBFgSiqzlXopqp2qeponQ==
4317.14	Postretirement Employment - https://simbli.eboardsolutions.com/SU/sSMPoBplusJaSngopZzLYCYYg==
4319.11	Sexual Harassment - https://simbli.eboardsolutions.com/SU/XplusH2UtVBqMFiXfxM1OektQ==
4319.11	Sexual Harassment - https://simbli.eboardsolutions.com/SU/cHs5kHhkkP1slshFBv4Jwcx7Q==
4332	Publication or Creation of Materials - https://simbli.eboardsolutions.com/SU/idhLplus0jaslshcQJPHdKf32SwA==
9270-B	Conflict Of Interest - https://simbli.eboardsolutions.com/SU/wEHmWvk3rKZNAwsU5WOBxA==