

Basic Tips for Contracts

Schools and school districts enter into contracts and Memoranda of Understanding (“MOUs”) for a variety of programs, services, and goods. School administrators need to be aware of some of the basic requirements for entering into agreements to avoid issues later.

In general, schools and school districts enter into contracts where money will exchange hands, and MOUs where programs and/or services are offered at no cost to the school. Schools may contact Procurement or Contracts Administration for assistance with the contract process. For MOUs for no-cost programs and services, a template agreement is available through the Office of General Counsel and the Office of Risk Management and Insurance Services with provisions to ensure potential liability issues are addressed.

One key provision regarding contract authority is Education Code section 17604. This statute notes that the governing board may delegate authority to specified staff to enter into agreements. If an employee enters into an agreement without this authority, that employee “shall be personally liable to the school district employing him or her for any and all moneys of the district paid out as a result of the malfeasance” (Education Code section 17604). Many schools have faced claims of failure to pay for goods and services when an unauthorized school employee or volunteer entered into an agreement. These situations have typically come up with extracurricular activities, athletics, and student body activities. Since the goods and services often have been received by the school, the school is often left with the unexpected bill. School administrators should make sure that all faculty advisors, coaches including walk-on coaches, and other involved staff and community members understand that school administrators must pre-approve and authorize these agreements. Furthermore, if student body funds will be expended, the student body approval process must also be followed. Publications 464 and 465, available on Inside LAUSD, provide additional details and steps to ensure the approval process is followed.

Finally, whether a contract, MOU, or other type of agreement, any time a school or school district shares pupil record information with a third party organization, federal law requires specified provisions to ensure confidentiality, limit access, and protect against unauthorized redisclosure (Family Educational Rights and Privacy Act, “FERPA,” 20 U.S.C. section 1232g; 34 C.F.R. section 99). This requirement includes any web-based service that would require the sharing of student-level or personally identifiable pupil record information. This requirement also includes external research proposals, including projects of school staff working on graduate degrees. External research must be approved through the District’s Research Unit. Please refer requesters to this unit: 213-241-2460 and/or www.lausd.net, Offices, Office of Data & Accountability. If you have questions about FERPA requirements, please contact the Office of the General Counsel.

*This **LAUSD Legal Brief** is for information only and does not constitute legal advice. Please contact the Office of the General Counsel to determine how this information may apply to your school's specific facts and circumstances.*