

# POLICY DIB

## Board of Education Las Cruces Public Schools

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Related Entries: BDE, GBEA, GBKA, [GBEA-R](#)  
Responsible Office: Chief Financial Officer

### FRAUD, WASTE, ABUSE OR UNLAWFUL ACTS

#### I. PURPOSE

The purpose of this policy is to ensure the sound management of public funds.

#### II. BACKGROUND

The Board of Education accepts its fiduciary responsibility and role concerning the sound management of public funds entrusted to it. As a result, each employee of the Las Cruces Public Schools is expected to perform his or her duties with the highest ethical standards at all times and to follow any and all applicable laws, regulations, Board policies, and regulations developed by the Superintendent concerning the proper disposition and use of all district funds, property, and resources. The Board encourages employees to identify internal control weaknesses and report them to the next supervisory level.

#### III. DEFINITIONS

- A. “*Abuse*” is the wrongful or improper use of district resources, including the deliberate use of one’s position to act in a manner that is contrary to its rightful or legally authorized or intended purpose.
- B. “*Fraud*” is any intentional acts, characterized by either deceit, concealment, or violation of trust by which district employees or vendors use their employment status or vendor relationship to take money, property, services or resources for themselves or others or to provide benefits to vendors or others in exchange for personal gain.
- C. “*Waste*” is any improper, careless, or excessing pending, consuming, mismanaging or misusing district resources by employees or vendors or providing benefits to vendors or others in exchange for personal gain.

#### IV. POSITION

- A. Each employee and/or agent who suspects fraud, waste, abuse, or an unlawful act has occurred, is occurring or will occur shall make a report to:
  - 1. The Chief Financial Officer or the Human Resource Department;  
and
  - ~~2. The Finance or Human Resource Office; and/or~~
  - 3. His/her immediate supervisor.

- B. Nothing in this policy or any implementing regulation shall be construed as preventing an employee from lawfully and in good faith reporting or otherwise disclosing information to a government or law enforcement agency.
- C. Credible reports supported by facts under this policy shall not be rejected on the basis that such reports were made anonymously. The School District shall take all reasonable steps to investigate and respond to a report consistent with a request by the reporting party not to disclose his/her name. The Board expects confidentiality to be maintained to the greatest extent possible. While there is no assurance of complete confidentiality, reports under this policy should be treated as sensitive information and shared on a need to know basis. Examples of exceptions to maintaining confidentiality include:
  - 1. Information the law requires to be reported;
  - 2. Unlawful or potentially unlawful conduct reported to law enforcement in good faith;
  - 3. Information imparted to others in supervisory positions in order to further an investigation or halt fraud, waste, abuse, or unlawful acts; and
  - 4. Information given to an accused in order to have sufficient information to respond to the allegations.
- D. All reports of fraud, waste, abuse, or unlawful acts received under this policy shall immediately be forwarded to the Chief Financial Officer or the Chief of Human Resources, as appropriate.
- E. For the purposes of this policy, the types of fraud, waste, abuse, or unlawful acts that must be reported include, but are not limited to:
  - 1. Any dishonest or fraudulent act involving district funds, property, contracts, or resources including those acts prohibited by Section 44-9-3 NMSA 1978 of the Fraud Against Taxpayers Act;
  - 2. Conspiring to defraud the district by obtaining approval or payment on a false or fraudulent claim;
  - 3. Conspiring to defraud the district by obtaining approval or payment on a false or fraudulent claim;
  - 4. When in possession, custody or control of property or money used or to be used by the district, knowingly delivering or causing to be delivered less property or money than the amount indicated on a certificate or receipt;
  - 5. When authorized to make or deliver a document certifying receipt of property used or to be used by the district, knowingly making or delivering a receipt that falsely represents a material characteristic of the property;

6. knowingly buying, or receiving as a pledge of an obligation or debt, public property from any person that may not lawfully sell or pledge the property;
  7. knowingly making or using, or causing to be made or used, a false, misleading or fraudulent record or statement to conceal, avoid or decrease an obligation to pay or transmit money or property to the district;
  8. as a beneficiary of an inadvertent submission of a false claim and having subsequently discovered the falsity of the claim, failing to disclose the false claim to the district within a reasonable time after discovery;
  9. Knowingly making or using, or causing to be made or used, a false, misleading or fraudulent record or statement to obtain or support the approval of or the payment on a false or fraudulent claim such as by forging, altering, falsifying or otherwise tampering with any district document, account, invoice, purchase order, transaction, signature or files in any form;
  10. Abuse of leave time or overtime;
  11. Knowingly presenting, or causing to be presented a false or fraudulent claim for payment or approval such as a falsified time records or expense reports;
  12. Misappropriating cash, securities, inventory, supplies, fixed assets, or other district assets;
  13. Disclosing and/or divulging confidential and/or proprietary information to outside parties;
  14. Accepting and/or soliciting anything of material value, other than items used in the normal course of advertising, to, from or on behalf of contractors, vendors, or persons providing services to the district;
  15. Removing, borrowing, destroying or inappropriately using district or school records, furniture, fixtures or equipment without permission;
  16. Improper handling or reporting of cash, district assets, or transactions; and/or
  17. Any similar or related, dishonest or fraudulent act involving district funds, property, contracts, or resources.
- F. The Chief Financial Officer in collaboration with the Human Resources Department is authorized to initiate and conduct any audit or review deemed necessary in order to investigate fraud, waste, abuse and or unlawful acts. Additionally, the Board has a finance subcommittee which serves as an external monitoring committee on budget and other financial matters.
- G. The Chief Financial Officer and Chief Human Resources Officer, as

appropriate, shall have:

1. Full and unrestricted access to all district assets, technology records, documents and files in any form;
  2. The right to inspect all district assets, technology, records, documents, and files in any form;
  3. Full and unrestricted access to district employees, officials, contractors, and others working for on behalf of the Superintendent;
  4. The ability to inspect all district goods, equipment, vehicles or property, whether owned, leased, or borrowed;
  5. Cooperation from appropriate district employees in locating assets, technology, records, documents, and files in any form;
  6. Entry privileges to any and all facilities owned or used by the district;
  7. Interview privileges, whether written or oral, with all district employees; and
  8. The full cooperation of district employees in the completion of the Chief Financial Officer's approved work plan.
- H. All district employees shall fully cooperate with an internal audit investigation in the completion of internal reviews or investigations.
- I. District employees are prohibited from taking action that interferes with an ongoing investigation. Any violation may result in disciplinary action.
- J. Anyone making a report shall not be retaliated against for any reports made in which the person making the report has a reasonable belief or suspicion that the conduct being reported is:
1. A violation of law, rule, policy or regulation; or
  2. Gross mismanagement, a gross waste of resources or assets, or a substantial or specific danger to health or safety.

## **V. CONSEQUENCES**

- A. A district employee found to have engaged in fraud, waste, abuse or an unlawful act is subject to discipline, including termination;
- B. The Superintendent is authorized to take all appropriate actions, including reporting the fraud, waste, abuse, or unlawful act to the police or appropriate government authorities and cooperate with criminal investigations.

C. The Superintendent will make all necessary attempts to recover any losses resulting from fraud, waste, abuse, or unlawful acts.

**VI.** The Superintendent shall promulgate a regulation for the enforcement of this policy which shall include a system of internal controls designed to prevent, waste, abuse and unlawful acts, and to promptly identify and fully address such acts when they occur. Such system of internal controls shall be part of a comprehensive internal control framework designed to safeguard the district's assets, check the accuracy and reliability of its accounting data, promote operational efficiency, and encourage adherence to policies for accounting and financial controls.

**VII. REVIEW**

This policy shall be reviewed on an ongoing basis in accordance with the Board of Education policy review process.

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*Board of Education, President*

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*Date Approved*

**History:** *New Policy*

**Legal Reference:** 44-9-1 to 44-9-14 NMSA 1978; NMPED Manual of Procedures (PSAB)