



June 16, 2022

Mr. Isaiah Pettway
isaiah.pettway@wayprogram.net
WAY Academy Detroit
8701 W. Vernor
Detroit, MI 48209

Dear Mr. Pettway:

RE: ** IMPORTANT: Your board policies update has been processed**

On behalf of the team at the National Charter Schools Institute, thank you for engaging us for our Board Policies Update Service. It is a privilege to work with you each Fall and Fall to ensure that WAY Academy Detroit's policies are up-to-date with changes in law, regulation, and best practices.

We have prepared the **Spring 2022** updates (and the associated administrative guidelines and forms) for the WAY Academy Detroit's Board of Director's review and consideration. Once the Board has acted on these policies, please return the completed disposition form (attached) and any changes to me either via email at boardpolicies@nationalcharterschools.org or via fax at (989) 317-3514. Upon receipt, we will finalize these updates, as appropriate, and return them to you. We will also prepare and send an updated copy of your Board Policies Manual for your convenience.

Also, please know that your policies are available anytime through Epicenter. This ensures that everyone at your school has easy access to them so they can provide clear direction and guidance for your school. Please do not hesitate to contact us if you need help signing onto your Epicenter account, I have provided the Board login below.

Username: wayacademydetroit
Password: gowayacademy1!

As part of our commitment to WAY Academy Detroit, please know that we're always here to support you. If you ever need support on how to best use your policies, or if we can be of assistance with your next board retreat or planning session, please don't hesitate to call your associate, Mr. Neil Hartman or me. We would be honored to help out.

Again, thank you for your work with the Institute. We look forward to our continued work together.

Sincerely,

A handwritten signature in black ink that reads "Michelle Wilson".

Michelle Wilson
Board Services Coordinator
National Charter Schools Institute

Enclosures

WAY Academy Detroit

DISPOSITION FORM
POLICIES FOR BOARD ADOPTION – SPRING 2022

<u>Policy Number</u>	<u>ADOPTED</u>	<u>TABLED</u>	<u>REJECTED</u>
Table of Contents	_____	_____	_____
5511	X	_____	_____
6110	X	_____	_____
6114	X	_____	_____
6325	X	_____	_____

Date of Board Meeting: _____

Send Final Policies to: Isaiah Pettway, Superintendent & Alexandra Guzman, Compliance Coordinator

E-mail Address: isaiah.pettway@wayprogram.net, alexandra.guzman@wayprogram.net

AFTER BOARD ACTION, PLEASE RETURN THIS FORM TO:

Michelle Wilson, Board Services Coordinator

National Charter Schools Institute

E-mail: boardpolicies@nationalcharterschools.org

Phone: (989) 317-3510 Fax: (989) 317-3514

Spring 2022 Board Policies Summary Table

Board Policies

Board Operating Policy/ Policy No.	Policy Title	New/ Revise/ Replace/ Delete	Legally Required, Legal Content or Best Practice	Summary
Regular Spring Update				
5511	Dress and Grooming	Revised	Best Practice	New policies and optional language have been added to state what is legally required with regard to enforcing the dress code in a nondiscriminatory/uniform manner and affirming an employee's right to dress in accordance with their gender identity (within the constraints of the adopted dress code). The added language is an option because there is no requirement to include such language in policy or administrative guideline. Implementation of such measures is required in accordance with the stated principles, whether they are in writing or not, in order to comply with Title IX and Title VII.
6110	Grant Funds	Revised	Legally Required	This policy has been revised to include the latest changes to the Education Department General Administrative Regulations (EDGAR). Specific requirements for Maintenance of Effort (MOE) and Maintenance of Equity (MOEquity) will need to be documented and provided at the time of audit of specific funded programs (ESSER, GEER, etc.) This revised policy reflects current EDGAR provisions and should be adopted to maintain accurate policies.
6114	Cost Principles – Spending Federal Funds	Revised	Legal Content	These policies have been revised to include the latest changes to the Education Department General Administrative Regulations (EDGAR). Specific prohibitions regarding costs incurred for telecommunications and video surveillance services or equipment are included, along with the Davis-Bacon prevailing wage provisions for contracts in excess of \$2,000 related to construction, alteration, repairs, etc. These revisions reflect current EDGAR provisions and should be adopted to maintain accurate policies.
6325	Procurement – Federal Grants/Funds	Revised	Legally Required	

Administrative Guidelines

Guideline No.	Guideline Title	New/ Revise/ Replace/ Delete	Legally required or Best Practice	Summary
5511	Dress and Grooming	Revised	Best Practice	See note on Policy 5511.

Quickly Find Your Board Policies in Epicenter

1. Sign in at my.epicenternow.org
 - a. Use your board's shared username and password

Username: wayacademydetroit

Password: gowayacademy1!

2. Click the Board Center icon



3. Click the  tab.

4. Find and Download Your File:

The screenshot shows the 'Current Key Submissions' page in Epicenter. It features a table with columns for 'Type' and 'Submission'. The first row is for the '*Final Board Policy Manual' with a 'Download Whole Manual' button. The second row is for 'Final BP 0000 - Board Operating Policies' and lists multiple individual policy files, each with a 'Download Individual Policy' button. A callout box labeled 'Individual Policy Title' points to the file names. The third row is for 'Final BP 1000 - Administration' and lists several administrative policy files.

Type	Submission
*Final Board Policy Manual	Board Policy Manual.pdf Academy for Business and Technology BP Manual - Sp20.pdf
Final BP 0000 - Board Operating Policies	BP 0000 - Board Operating Policies (Part 1).pdf 0000 BP - BOARD OPERATING POLICY INDEX.pdf BP 0000 - Board Operating Policies (Part 2).pdf 0100 BP - Definitions.pdf BP 0000 - Board Operating Policies (Part 3).pdf 0110 BP - Official Description.pdf BP 0000 - Board Operating Policies (Part 4).pdf 0120 BP - Powers and Philosophy.pdf BP 0000 - Board Operating Policies (Part 5).pdf 0130 BP - Functions.pdf BP 0000 - Board Operating Policies (Part 6).pdf 0140 BP - Membership.pdf BP 0000 - Board Operating Policies (Part 7).pdf 0150 BP - Organization.pdf BP 0000 - Board Operating Policies (Part 8).pdf 0160 BP - Meetings.pdf BP 0000 - Board Operating Policies (Part 9).pdf 0170 BP - Duties.pdf
Final BP 1000 - Administration	BP 1000 - Administration (Part 1).pdf 1000 BP - ADMINISTRATION INDEX.pdf BP 1000 - Administration (Part 2).pdf 1110 BP - Assessment of Academy's Goals.pdf BP 1000 - Administration (Part 3).pdf

TABLE OF CONTENTS

Legend:

LR = Legally Required (if applicable)

LC = Legal Content

BP = Best Practice

0000 **BOARD OPERATING POLICY¹**

0100	Definitions	LR
0110	Official Description	
	0111 Name	BP ¹
	0112 Purpose	BP
	0115 Address	BP
0120	Powers and Philosophy	
	0121 Authority	BP
	0122 Board Powers	LC
0130	Functions	
	0131 Legislative	BP
	0131.1 Charter Contract Bylaws and Board Operating Policies	BP
	0132 Executive	BP
	0132.1 Selection of School Leader/Educational Service Provider	BP
	0132.2 Administrative Procedures	BP
	0133 Judicial	BP
0140	Membership	BP
	0141 Number	BP
	0141.1 Student-Body Representatives	BP
	0142 Appointment	BP
	0142.1 Term	BP
	0142.2 Oath	BP
	0142.3 Vacancies	BP
	0142.31 Filing a Board Vacancy	BP

	0142.4	Orientation	BP
	0143.1	Public Expression of Board Members	LR
	0144	Operations	BP
	0144.1	Compensation	BP
	0144.11	Reimbursement of Expenses	LR
	0144.2	Board Member Ethics	BP
	0144.3	Conflict of Interest	LC
	0144.4	Indemnification	BP
	0145	Discriminatory Harassment	LC
0150		Organization	
	0151	Annual Organizational Meeting	LR
	0152	Officers	BP
	0154	Annual Organizational Meeting Agenda (Motions)	BP
	0155	Committees	BP
0160		Meetings	
	0161	Parliamentary Authority	BP
	0162	Quorum	LC
	0163	Presiding Officer	BP
	0164	Call	BP
	0164.1	Regular Meetings	LC
	0164.2	Special Meetings	LC
	0164.3	Emergency Meetings	LC
	0165	Notice	LC
	0165.1	Posting Notice of Regular Meetings	LC
	0165.2	Change of Regular Meetings	LC
	0165.3	Posting Notice of Special Meetings	LC
	0165.4	Posting Notice of Emergency Meetings	LC
	0165.5	Recess	BP
	0165.6	Cancellation	LC
	0166	Agenda	LC
	0166.1	Consent Agenda	LC
	0167	Conduct	

	0167.1	Voting	LR
	0167.2	Closed Session	LR
	0167.3	Public Participation at Board Meetings	LR
	0167.4	Administrative Participation	BP
	0167.5	Use of Electronic Mail	BP
	0167.6	Use of Social Media	BP
	0168	Minutes	BP
	0168.1	Open Meeting	LR
	0168.2	Closed Meeting	LC
	0168.3	Committee Meetings	LC
	0169	Student Disciplinary Hearings	LC
	0169.1	Closed Session Requested	LC
	0169.2	Open Hearing	LC
0170	Duties		
	0171	Officers	
	0171.1	President	LC
	0171.2	Vice-President	LC
	0171.3	Secretary	LC
	0171.4	Treasurer	LC
	0172	Legal Counsel	BP
	0173	Independent Auditor	BP
	0175	Association Memberships	BP
	0175.1	Board Conferences, Conventions, and Workshops	BP

1000 ADMINISTRATION

1000	Educational Service Provider Statement	
1110	Assessment of Academy's Goals	
1130	Conflict of Interest	LR
1210	Board/Educational Service Provider/School Leader Relationship	BP
1217	Weapons	LR
1220	Employment of the Educational Service Provider/School Leader	BP

1230	Responsibilities of the Educational Service Provider/School Leader	BP
1230.01	Development of Administrative Guidelines	BP
1240	Evaluation of the Educational Service Provider	BP
1241	Termination of the Educational Service Provider/School Leader	BP
1400	Job Descriptions	
1420	Academy Administrator and School Leader Evaluation	LC
1421	Criminal History Record Check	LR
1422	Nondiscrimination and Equal Employment Opportunity	LR
1422.01	Drug-Free Workplace	LR
1422.02	Nondiscrimination Based on Genetic Information of the Employee	LC
1430	Leaves of Absence	LC
1439	Administrator Discipline	LC
1460	Physical Examination	LC
1461	Unrequested Leaves of Absence/Fitness for Duty	LC
1613	Student Supervision and Welfare	LC
1615	Use of Tobacco by Administrators	LR
1616	Staff Dress and Grooming	BP
1619	Group Health Plans	LR
1619.01	Privacy Protections of Self-Funded Group Health Plans	LR
1619.02	Privacy Protections of Fully-Insured Group Health Plans	LR
1619.03	Patient Protection and Affordable Care Act	LR
1623	Section 504/ADA Prohibition against Disability Discrimination in Employment	LR
1630.01	Family & Medical Leaves of Absences (FMLA)	LR
1662	Anti-Harassment	LR

2000 PROGRAM

2105	Mission of the Academy	BP
2111	Value Statements for Board, Staff and/or Educational Service Provider, and Students	BP
2112	Parent and Family Engagement	LR

2120	School Improvement	LC
2131	Educational Outcomes for Students	BP
2132	Educational Process Goals	BP
2210	Curriculum Development - Approved Courses	LC
2210.01	Right to Inspect Instructional Materials	LC
2220	Adoption of Courses of Study	LC
2221	Mandatory Courses	LC
2225	Students with Limited English Proficiency	BP
2231	Curriculum	LC
2240	Controversial Issues	BP
2250	Innovative Programs	BP
2260	Nondiscrimination and Access to Equal Educational Opportunity	LR
2260.01	Section 504/ADA Prohibition Against Discrimination Based on Disability	LR
2261	Title I Services	LR
2261.01	Parent and Family Member Participation in Title I Programs	LR
2261.02	Title I – A Parent’s Right to Know	LC
2261.03	Academy and School Report Card	LR
2265	Child Care Centers	LR
2266	Discrimination on the Basis of Sex in Education Programs or Activities	LR
2270	Religion in the Curriculum	BP
2271	Postsecondary (Dual) Enrollment Option Program	LC
2280	Physical Education	BP
2330	Homework	BP
2340	Field and Other Academy-Sponsored Trips	BP
2370	Educational Options	BP
2370.01	On-Line/Blended Learning Program	LC
2410	Prohibition on Referral or Assistance	LR
2411	Guidance and Counseling	BP
2412	Homebound Instruction Program	LC
2413	Health Education Program	LC
2414	Reproductive Health and Family Planning	LR

2416	Student Privacy and Parental Access to Information (FERPA)	LR
2417	Comprehensive School Health Education	LC
2418	Sex Education	LR
2430	Academy-Sponsored Clubs and Activities	LC
2431	Interscholastic Athletics	LR
2431.01	Managing Heat and Humidity in Interscholastic Athletic Programs	LC
2432	Driver Education	LR
2433	Operation of a Child Care Center or Before/After School Program	LR
2434	Academy Nurses and Academy Health Programs	LR
2460	Education of Children with Disabilities	LR
2460.02	Least Restrictive Environment (LRE) Position Statement	LR
2461	Recording of Academy Meetings Involving Students and/or Parents	BP
2510	Adoption of Textbooks	BP
2521	Selection of Instructional Materials and Equipment	LC
2531	Copyrighted Works	BP
2605	Program Accountability and Evaluation	BP
2623	Student Assessment	LR
2628	State Aid Incentives	BP
2700	P.A. Annual Report	LC

3000 STAFF

3000	Educational Service Provider Statement	
3110	Conflict of Interest	LR
3112	Board-Staff Communications	BP
3120	Employment of Teachers and Administrators	LR
3120.04	Employment of Substitutes	LC
3120.07	Employment of Casual Resource Personnel	BP
3120.10	Job Sharing	BP
3121	Criminal History Record Check	LR
3121.01	Criminal Conviction Review	LC

3122	Anti-Discrimination	LR
3122.01	Drug Free Workplace	LR
3122.02	Non-Discrimination Based on Genetic Information of the Employee	LC
3122.02a	Non-Discrimination against State Universities in Student Teaching, Hiring and Counselor Recommendations	LC
3122.03	Employee Handbook and Treatment of Salaried & Non-Salaried Employees	LC
3123	Section 504/ADA Prohibition against Disability Discrimination in Employment	LR
3130	Assignment and Transfer	LR
3139	Staff Discipline	LR
3140	Termination and Resignation	LC
3150	Employee Absences	LC
3160	Physical Examination	LC
3161	Involuntary Leaves of Absence/Fitness for Duty	LC
3162	Controlled Substance and Alcohol Policy for Commercial Motor Vehicle (CMV) Drivers	LR
3170	Substance Abuse	BP
3210	Staff Ethics	LC
3211	Whistleblower Protection	LC
3213	Student Supervision and Welfare	LC
3214	Staff Gifts	LC
3215	Use of Tobacco by Staff	LR
3216	Staff Dress and Grooming	BP
3217	Weapons	LR
3220	Teacher Evaluation	LC
3231	Outside Activities of Staff	LC
3243	Professional Meetings	BP
3310	Freedom of Speech in Non-instructional Settings	BP
3362	Anti-Harassment	LR
3362.01	Threatening Behavior toward Staff Members	LC
3362.02	Workplace Safety	LC
3419	Group Health Plans	LC

3419.01	Privacy Protections of Self-Funded Group Health Plans	LR
3419.02	Privacy Protections of Fully Insured Group Health Plans	LR
3419.03	Patient Protection and Affordable Care Act	LR
3430	Leaves of Absence	LC
3430.01	Family and Medical Leaves of Absence (FMLA)	LR
3437.01	Military Leave	LC
3440	Job-Related Expenses	LR

5000 STUDENTS

5111	Admission of Students	LR
5111.01	Homeless Students	LR
5111.02	Educational Opportunity for Military Children	LR
5111.03	Children and Youth in Foster Care	LR
5112	Entrance Age	LC
5114	Foreign and Foreign-Exchange Students	LR
5130	Withdrawal from the Academy	LC
5136	Personal Communication Devices	BP
5200	Attendance	BP
5215	Missing and Absent Children	LC
5223	Absences for Religious Instruction	LC
5230	Late Arrival and Early Dismissal	BP
5310	Health Services	LR
5320	Immunization	LC
5330	Use of Medications	LR
5330.01	Epinephrine Auto-Injectors	LR
5330.02	Opioid Antagonists	LC
5331	Students with Special Dietary Needs	BP
5335	Care of Students with Chronic Health Conditions	BP
5340	Student Accidents	BP
5340.01	Concussions and Athletic Activities	LR
5341	Emergency Medical Authorization	LC

5342	Do Not Resuscitate Orders (DNR) for Minor Students	LR
5343	Physician Order for Scope of Treatment (POST)	LR
5350	Student Suicide	LC
5410	Promotion, Placement, and Retention	BP
5420	Reporting Student Progress	BP
5421	Grading	BP
5430	Class Rank	BP
5451	Student Recognition	BP
5460	Graduation Requirements	LC
5463	Credits from Nonpublic Schools	BP
5464	Early Graduation	BP
5500	Student Conduct	LC
5510	Students-Sex Offender Registry; Criminal Convictions	BP
5511	Dress and Grooming	BP
5512	Use of Tobacco by Students	LC
5513	Care of Academy Property	BP
5514	Student Use of Bicycles	BP
5514.01	Student Use of Motor Vehicles	BP
5515.01	Safe Operation of Motorized utility Vehicles by Students	BP
5516	Student Hazing	LC
5517	Anti-Harassment	LR
5517.01	Bullying	LR
5520	Disorderly Conduct	BP
5530	Drug Free Environment	LR
5532	Performance-Enhancing Drugs/Compounds	LR
5540	Interrogation of Students	LC
5600	Student Discipline	LC
5610	Emergency Removal, Suspension, and Expulsion of Students	LR
5611	Due Process Rights	LR
5630.01	Student Seclusion and Restraint	LR

5710	Student Grievance	BP
5722	Academy-Sponsored Publications and Productions	LC
5730	Equal Access for Non-school Sponsored, Student Clubs and Activities	LC
5771	Search and Seizure	LR
5772	Possession of Weapons	LR
5780	Student/Parent Rights	LR
5820	Student Government	BP
5830	Student Fund-Raising	LC
5850	Social Events	BP
5895	Student Employment	BP

6000 FINANCES

6107	Authorization to Accept and Distribute Electronic Records and to Use Electronic Signatures	LC
6110	Grant Funds	LR
6111	Internal Controls	LR
6112	Cash Management of Grants	LC
6114	Cost Principles – Spending Federal Funds	LC
6116	Time & Effort Reporting	LC
6120	Safe Deposit Box	
6144	Investments	LR
6146	Post-Issuance Compliance for Tax-Exempt and Tax-Advantaged Obligations	LC
6151	Bad Checks	BP
6152	Student Fees, Fines, and Supplies	BP
6210	Fiscal Planning	BP
6220	Budget Preparation	LC
6230	Budget Hearing	LC
6231	Budget Implementation	BP
6320	Purchasing	LR
6321	New School Construction, Renovation	LC
6325	Procurement – Federal Grants/Funds	LR
6420	Conflict of Interest – Legal Counsel, Advisors, or Consultants	LC

6423	Use of Credit/Debit Cards	BP
6424	Purchasing Cards	BP
6440	Cooperative Purchasing	BP
6460	Vendor Relations	LC
6470	Payment of Claims	BP
6510	Payroll Authorization	BP
6520	Payroll Deductions	LC
6550	Travel Payment & Reimbursement	LR
6605	Crowdfunding	BP
6620	Petty Cash	BP
6670	Trust and Agency Fund	BP
6671	Health Care Fund Investments	LC
6680	Recognition	LC
6700	Fair Labor Standards Act (FLSA)	LR
6800	System of Accounting	LC
6850	Public Disclosure and Reporting	LR

7000 **PROPERTY**

7217	Weapons	LR
7230	Gifts, Grants, and Bequests	BP
7300	Disposition of Real Property	BP
7310	Disposition of Surplus Property	LR
7410	Maintenance	BP
7420	Hygienic Management	BP
7430	Safety Standards	LC
7434	Use of Tobacco on Academy Premises	LR
7440	Facility Security	BP
7440.01	Video Surveillance and Electronic Monitoring	LC
7440.03	Small Unmanned Aircraft Systems	LC
7450	Property Inventory	LR
7455	Accounting System for Fixed Assets	BP
7460	Conservation of Natural and Material Resources	BP

7510	Use of Academy Facilities	BP
7530	Lending of Board-Owned Equipment	BP
7530.01	() Cell Phone Allowance (7530.01V1) () Board-Owned Personal Communication Devices (7530.01V2)	LC
7530.02	Staff use of Personal Communication Devices	LC
7540	Technology	LC
7540.01	Technology Privacy	LC
7540.02	Web Accessibility, Content, Services, Apps and Services	LC
7540.03	Student Technology Acceptable Use and Safety	LR
7540.04	Staff Technology Acceptable Use and Safety	LR
7540.05	Academy-Issued Staff E-mail Account	BP
7540.06	Academy-Issued Student E-mail Account	BP
7540.07	Personal Internet Account Privacy – Students	LC
7540.08	Personal Internet Account Privacy – Staff	LC
7541	Electronic Data Processing/Information System Disaster Recovery Plan	BP
7542	Access to Academy Technology Resources and/or Information Resources from Personal Communication Devices	BP
7543	Utilization of the Academy’s Website and Remote Access to the Academy’s Network	BP
7544	Use of Social Media	LC
7545	Electronic Communications	BP

8000 OPERATIONS

8120	Iran Economic Sanctions Act Compliance	LR
8142	Criminal History Record Check	LR
8142.01	Weapons	LR
8210	Academy Calendar	LC
8220	School Day	BP
8300	Continuity of Organizational Operations Plan	BP
8305	Information Security	BP
8310	Public Records	LR
8310.01	Enhanced Access to Public Records	LR

8315	Information Management	BP
8320	Personnel Files	BP
8321	Criminal Justice Information Security (Non-Criminal Justice Agency)	LR
8325	Receipt of Legal Documents	BP
8330	Student Records	LR
8340	Letters of Reference	LR
8350	Confidentiality	LR
8351	Breach of Confidential Information	BP
8390	Animals on Academy Property	LR
8400	Academy Safety Information	LR
8401	Fire Safety and Fire Department Notification	LR
8402	Emergency Operations Plan	LR
8405	Environmental Health and Safety Issues	LC
8405.01	Integrated Pest Management	LC
8410	Crisis Intervention	BP
8420	Emergency Situations at the Academy	LC
8431	Preparedness for Toxic Hazards and Asbestos Hazard	LR
8442	Reporting Accidents	BP
8450	Control of Casual-Contact Communicable Diseases	BP
8450.01	Pediculosis (Head Lice)	BP
8450.02	Protective Face Coverings During Pandemic-Epidemic Events	BP
8450.05	Emergency Temporary Telecommuting Policy	BP
8450.06	Covid-19 Vaccination, Testing, And Face-Covering	BP
8452	Automatic External Defibrillators (AED)	LC
8453	Direct Contact Communicable Diseases	BP
8453.01	Control of Blood-Borne Pathogens	LC
8462	Student Abuse and Neglect	LC
8500	Food Services	LR*
8510	Wellness	LR
8510	Appendix A: Specific Goals for Nutrition	

8510	Appendix B: Specific Goals for Physical Activity	
8510	Appendix C: Specific Goals for Other Academy-Based Activities Designed to Promote Student Wellness	
8510	Appendix D: Specific Goals for Nutrition Promotion	
8510	Appendix E: Nutrition Guidelines for All Foods Available On Campus During the School Day	
8510	Appendix F: Wellness Policy Board Resolution	
8531	Free and Reduced-Priced Meals	LC
8540	Vending Machines	LR*
8600	Transportation	BP
8640	Transportation for Field and Other Academy-Sponsored Trips	BP
8660	Transportation by Private Vehicle	BP
8710	Insurance	LC
8740	Bonding	BP
8760	Student Accident Insurance	BP
8800	Religious/Patriotic Ceremonies and Observances	LC
8900	Anti-Fraud	BP

9000 RELATIONS

9111	Telephone Communications	BP
9120	Academy Information Program	BP
9130	Public Complaints	BP
9150	Academy Visitors	BP
9160	Public Attendance at Academy Events	LC
9211	Academy Support Organizations	BP
9250	Parent/Legal Guardian Review of Instructional Materials and Observation of Instructional Activities	LR
9500	Relations with Educational Institutions and Organizations	BP
9555	Partnerships with Business	BP
9700	Relations with Special Interest Groups	BP

9700.01	Advertising and Commercial Activities	BP
9710	Volunteers	BP

¹ Many of the board operating policies are also required by the Charter Contract, and are generally contained in the bylaws in the Charter Contract. The bylaws enshrined the Charter Contract always take precedence over these board operating policies. Each contract should be reviewed to consider whether these policies are required by contract, even if not required by law.

*These food policies are only legally required if the school that serves food to students AND receives direct or indirect federal aid for the food program.

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Adoption Date: **09.13**

Classification:

Revised Dates: **7/21/14; 3/16/15; 6/15/15; 5/16/16; 8/15/16; 01/23/17;
3/27/17; 8/15/17; 10/16/17; 2/26/18; 9/17/18; 2/19/19; 9/17/19; 3/24/20;
5/20/20; 9/15/20; 11/17/20; 5/18/21; 12.21**

TABLE OF CONTENTS

5000 STUDENTS

5111	Admission of Students	LR
5111.01	Homeless Students	LR
5111.02	Educational Opportunity for Military Children	LR
5111.03	Children and Youth in Foster Care	LR
5112	Entrance Age	LC
5114	Foreign and Foreign-Exchange Students	LR
5130	Withdrawal from the Academy	LC
5136	Personal Communication Devices	BP
5200	Attendance	LC
5215	Missing and Absent Children	LC
5223	Absences for Religious Instruction	LC
5230	Late Arrival and Early Dismissal	BP
5310	Health Services	LR
5320	Immunization	LC
5330	Use of Medications	LR
5330.01	Epinephrine Auto-Injectors	LR
5331	Students with Special Dietary Needs	BP
5340	Student Accidents	BP
5341	Emergency Medical Authorization	LC
5342	Do Not Resuscitate Orders (DNR) for Minor Students	LR
5343	Physician Order for Scope of Treatment (POST)	LR
5420	Reporting Student Progress	BP
5421	Grading	BP
5460	Graduation Requirements	LC
5463	Credits from Nonpublic Schools	BP

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5510	Students-Sex Offender Registry; Criminal Convictions	BP
5511	Dress and Grooming	BP
5512	Use of Tobacco by Students	LC
5513	Care of Academy Property	BP
5514	Student Use of Bicycles	BP
5515.01	Safe Operation of Motorized utility Vehicles by Students	BP
5516	Student Hazing	LC
5517	Anti-Harassment	LR
5517.01	Bullying	LR
5520	Disorderly Conduct	BP
5530	Drug Free Environment	LR
5532	Performance-Enhancing Drugs/Compounds	LR
5540	Interrogation of Students	LC
5600	Student Discipline	LC
5610	Emergency Removal, Suspension, and Expulsion of Students	LR
5611	Due Process Rights	LR
5630.01	Student Seclusion and Restraint	LR
5710	Student Grievance	BP
5722	Academy-Sponsored Publications and Productions	LC
5771	Search and Seizure	LR
5772	Possession of Weapons	LR
5780	Student/Parent Rights	LR
5820	Student Government	BP
5830	Student Fund-Raising	LC
5850	Social Events	BP

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**8/15/17; 10/16/17; 2/26/18; 9/17/18; 2/19/19; 9/17/19; 3/24/20; 5/20/20;
9/15/20; 11/17/20; 05.21**

REVISED POLICY - SPRING 2022 -- DRESS AND GROOMING

The Board of Directors recognizes each student's mode of dress and grooming is a manifestation of personal style and individual preference. The Board will not interfere with the right of students and their parents to make decisions regarding their appearance, except when their choices interfere with the educational program of the Academy. [Students have the right to dress in accordance with their gender identity, within the constraints of the dress code promulgated by the Academy.](#)

Accordingly, the Educational Service Provider shall establish such grooming procedures as are necessary to promote discipline, maintain order, secure the safety of students, and provide a healthy environment conducive to academic purposes. Such procedures shall prohibit student dress or grooming practices that have the following characteristics:

- A. present a hazard to the health or safety of the student ~~himself/herself~~ or to others in the Academy;
- B. interfere with ~~academy school~~ work, create disorder, or disrupt the educational program;
- C. cause excessive wear or damage to ~~academy school~~ property;
- D. prevent the student from achieving ~~his/her own~~ educational objectives because of blocked vision or restricted movement.

Such procedures shall establish the dress requirements for members of the athletic teams, bands, and other ~~academy school~~ groups when representing the Academy at a public event.

The Educational Service Provider shall develop Administrative Procedures to implement this policy to:

- A. designate the School Leader as the arbitrator of student dress and grooming ~~at the building level in his/her building~~;
- B. [invite the participation of staff, parents, and students in the preparation of a dress code which may specify prescribed dress and grooming practices, but may not amplify the rationale for prohibition established by Board policy;](#)
- C. instruct staff members to demonstrate, by example and precept, desirable values such as personal neatness, cleanliness, propriety, modesty, and good sense in attire and appearance;~~;~~
- D. [ensure that all administrative guidelines impose only minimum and necessary restrictions on the exercise of the student's taste and individuality;](#)
- E. [direct staff to enforce the academy's dress code in a nondiscriminatory and uniform manner, including without regard to whether a student is transgender or gender nonconforming.](#)

[Students who violate the foregoing rules may not be admitted to class and may be suspended from the Academy.](#)

Adoption Date: **09.13**
Classification: **Best Practice**
Revised Dates: ;

TABLE OF CONTENTS

6000 FINANCES

6107	Authorization to Accept and Distribute Electronic Records and to Use Electronic Signatures	LC
6110	Grant Funds	LR
6111	Internal Controls	LR
6112	Cash Management of Grants	LC
6114	Cost Principles – Spending Federal Funds	LC
6116	Time and Effort Reporting	LC
6120	Safe Deposit Box	
6144	Investments	LR
6146	Post-Issuance Compliance for Tax-Exempt and Tax-Advantaged Obligations	LC
6151	Bad Checks	BP
6152	Student Fees, Fines, and Supplies	BP
6210	Fiscal Planning	BP
6220	Budget Preparation	LC
6230	Budget Hearing	LC
6231	Budget Implementation	BP
6320	Purchasing	LR
6321	New School Construction, Renovation	LC
6325	Procurement – Federal Grants/Funds	LR
6420	Conflict of Interest – Legal Counsel, Advisors, or Consultants	LC
6440	Cooperative Purchasing	BP
6460	Vendor Relations	LC
6470	Payment of Claims	BP
6550	Travel Payment and Reimbursement	LR
6605	Crowdfunding	BP

6620	Petty Cash	BP
6670	Trust and Agency Fund	BP
6680	Recognition	LC
6700	Fair Labor Standards Act (FLSA)	LR
6800	System of Accounting	LC
6850	Public Disclosure and Reporting	LR

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3/24/20; 5/20/20; 5/18/21; 12.21**

REVISED POLICY - SPRING 2022 -- GRANT FUNDS

Reference:

2 CFR 200.112, 200.302, 200.310, 200.403, 200.404 and 200.406
Compliance Supplement for Single Audits of State and Local Governments
20 U.S.C. 7906

It is the objective of the Board of Directors to provide equal educational opportunities for all students at the Academy. Government agencies, as well as foundations, businesses, and individuals, periodically offer both human and material resources to the Academy that would benefit students and the educational program. Therefore, it is the intent of the Board to consider grant proposals and applications for their potential to enhance educational opportunities, the educational environment, and the physical and mental growth for each student.

The Educational Service Provider shall review new Federal education legislation and prepare proposals for programs deemed would be of aid to the students of this Academy. The Board shall approve all grants resulting from such proposals.

The Board regards available Federal funds of aid to local school districts, public school academies, and communities as a public trust. It forbids the use of Federal monies for partisan political activities and for any use that would not be in accordance with Federal regulations and guidelines.

No Federal funds received by the Academy shall be used (1) to develop or distribute materials, or operate programs or courses of instruction directed at youth, that are designed to promote or encourage sexual activity, whether homosexual or heterosexual; (2) to distribute or to aid in the distribution by any organization of legally obscene materials to minors on school grounds; (3) to provide sex education or HIV-prevention education in schools unless that instruction is age appropriate and includes the health benefits of abstinence; or (4) to operate a program of contraceptive distribution in schools.

Grant Proposal Development

- A. All grant proposals must support at least one (1) Academy goal or priority.
- B. For projects where grant funds will not cover the entire cost of project implementation, additional fund sources must be identified, documented, and approved during the internal review process.
- C. Each grant proposal shall be reviewed and approved by the Educational Service Provider prior to submission to the funding source.

Grant Administration

- A. The administration of grants will adhere to all applicable Federal, State, local, and grantor rules and regulations, including the terms and conditions of the Federal awards, as well as Academy policies and administrative procedures/guidelines.
- B. The Educational Service Provider is responsible for the efficient and effective administration of grant awards through the application of sound management practices.
- C. The Educational Service Provider is responsible for administering grant funds in a manner consistent with underlying agreements, applicable statutes, regulations, and program objectives, and the terms and conditions of the grant award.

- D. The Educational Service Provider, in recognition of its unique combination of staff, facilities, and experience, shall employ internal controls and the organizational and management strategies necessary to assure proper and efficient administration of grant awards.
- E. All Federal funds received by the Academy will be used in accordance with the applicable Federal law and regulations and the terms and conditions of the Federal award. The Educational Service Provider shall require that each draw of Federal monies be aligned with the Academy's payment process (whether reimbursement, cash advance or a combination). If funds are permitted to be drawn in advance, all draws will be as close as administratively feasible to the related program expenditures and that, when restricted, such monies are used to supplement programs and funding and not to supplant or replace existing programming or current funding.

Maintenance of Effort (MOE) and Maintenance of Equity (MOEquity) requirements of the Federal program will be met in accordance with the requirements of the specific funded program. The Academy shall maintain appropriate documentation and records to substantiate compliance or to justify allowable exceptions, exemptions, or waivers.

- F. The School Leader is authorized to sign related documents for grant administration, including documents required for submittal of grant proposals.
- G. Written amendments requiring the School Leaders signature shall be presented to the Board for approval.
- H. Employee positions established through the use of grant funding may terminate if and when the related grant funding ceases.
- I. Program reports including but not limited to audit, site visits, and final reports may be submitted to the School Leader for review and distribution to the Board and other appropriate parties.

Financial Management

The financial management of grant funds shall be in compliance with all applicable Federal, State, local, and grantor rules, regulations, and assurances as well as Academy policies and administrative procedures/guidelines.

At a minimum, the Academy shall provide for the following:

- A. Identification, in Academy accounts, of all grant awards received and expended and the programs under which they were received. For Federal programs and awards, identification shall include the Catalog of Federal Domestic Assistance (CFDA) title and number, Federal award identification number and year, name of the Federal agency and name of the pass-through entity, as applicable.
- B. The Academy shall develop a procurement policy (or revise its current procurement policy) to comply with all grants which it is awarded. Further, to the extent applicable, the Academy shall adhere to the requirements of the Education Department General Administrative Regulations.
- C. Accurate, current, and complete disclosure of the financial results of each Federal award or program in accordance with the reporting requirements of the grant.
- D. Records that adequately identify the source and application of funds provided for Federally-funded activities. These records must contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, expenditures, income and interest and be supported by source documentation.
- E. Effective control over, and accountability for, all funds, property, and other assets. The Academy must adequately safeguard all assets and assure that they are used solely for authorized purposes.

Further, the Academy must:

1. establish and maintain effective internal control over the Federal award that provides reasonable assurance that the Academy is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award;
 2. comply with Federal statutes, regulations and the terms and conditions of the Federal award;
 3. evaluate and monitor the Academy's compliance with statutes, regulations and the terms and conditions of the Federal award;
 4. take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings;
 5. take reasonable measures to safeguard protected personally identifiable information and other information the Federal awarding agency or pass-through entity designates as sensitive consistent with applicable Federal, State, local, and tribal laws regarding privacy and obligations of confidentiality.
- F. Comparison of expenditures with budget amounts for each Federal award.
- G. Recordkeeping and written procedures to the extent required by Federal, State, local, and grantor rules and regulations pertaining to the grant award and accountability, including but not limited to, the following areas:
1. cash management
 2. allowability
 3. conflict of interest
 4. procurement
 5. equipment management
 6. conducting technical evaluations of proposals and selecting recipients
 7. compensation and fringe benefits
 8. travel
- H. Disclosure of any potential conflict of interest and all mandatory violation disclosures potentially affecting the Federal award/grant to the Federal awarding agency or pass-through agency in accordance with applicable Federal policy.
- I. Insurance coverage for real property and equipment, if applicable, equivalent to such property owned by the Academy.

[Program Income](#)

[Program income means gross income earned by a grant recipient that is directly generated by a supported activity or earned as a result of the Federal award during the grant's period of performance.](#)

[It includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under Federal awards, the sale of commodities or items fabricated under a Federal award, license fees and royalties on patents and copyrights, and principal and interest on loans made with Federal award funds. Interest earned on advances of Federal funds is not program income. Except as otherwise provided in Federal statutes, regulations, or the terms and conditions of the Federal](#)

award, program income does not include rebates, credits, discounts, and interest earned on any of them. Additionally, taxes, special assessments, levies, fines, and other such revenues raised by a recipient are not program income unless the revenues are specifically identified in the Federal award or Federal awarding agency regulations as program income. Finally, proceeds from the sale of real property, equipment, or supplies are not program income.

Unless it has received prior approval to use a different method or the terms and conditions of the grant authorize a different method, the Academy uses the deduction method of accounting for program income. Under the deduction method, program income is deducted from total allowable costs to determine the net allowable costs. Program income will only be used for current costs unless the Academy is otherwise directed by the Federal awarding agency or pass-through entity.

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Adoption Date: **09.13**

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REVISED POLICY - SPRING 2022 -- COST PRINCIPLES – SPENDING FEDERAL FUNDS

Reference:

[2 CFR. 200.216](#), 2 CFR. 200.344(b), 2 CFR. 200.403-.407, 200.413(a)-(c), 200.430(a), 200.431(a), 200.439(b)(2), 200.458, 2 CFR 200.474(b)
34 CFR 76.707-.708(a), 75.703

The Educational Service Provider is responsible for the efficient and effective administration of grant funds through the application of sound management practices. Such funds shall be administered in a manner consistent with all applicable Federal, State and local laws, the associated agreements/assurances, program objectives and the specific terms and conditions of the grant award.

Cost Principles

Except where otherwise authorized by statute, costs shall meet the following general criteria in order to be allowable under Federal awards:

- A. Be necessary and reasonable for proper and efficient performance and administration of the Federal award and be allocable thereto under these principles.

To determine whether a cost is reasonable, consideration shall be given to:

1. whether a cost is a type generally recognized as ordinary and necessary for the operation of the Academy or the proper and efficient performance of the Federal award;
2. the restraints or requirements imposed by such factors as sound business practices, arm's length bargaining, Federal, State, local, tribal and other laws and regulations;
3. market prices for comparable goods or services for the geographic area;
4. whether the individuals concerned acted with prudence in the circumstances considering their responsibilities; and
5. whether the cost represents any significant deviation from the established practices or Board policy which may unjustifiably increase the expense.

While Federal regulations do not provide specific descriptions of what satisfies the "necessary" element beyond its inclusion in the reasonableness analysis above, whether a cost is necessary is determined based on the needs of the program. Specifically, the expenditure must be necessary to achieve an important program objective. A key aspect in determining whether a cost is necessary is whether the Academy can demonstrate that the cost addresses an existing need, and can prove it.

When determining whether a cost is necessary, consideration may be given to:

1. the cost is needed for the proper and efficient performance of the grant program;
2. whether the cost is identified in the approved budget or application;

3. whether there is an educational benefit associated with the cost;
4. whether the cost aligns with identified needs based on results and findings from a needs assessment;
5. whether the cost addresses program goals and objectives and is based on program data.

A cost is allocable to the Federal award if the goods or services involved are chargeable or assignable to the Federal award in accordance with the relative benefit received. This standard is met if the cost: is incurred specifically for the Federal award; benefits both the Federal award and other work of the Academy and can be distributed in proportions that may be approximated using reasonable methods; and is necessary to the overall operation of the Academy and is assignable to the Federal award in accordance with cost principles mentioned here.

- B. Conform to any limitations or exclusions set forth in the cost principles in Part 200 or in the terms and conditions of the Federal award, [including prohibitions regarding costs incurred for telecommunications and video surveillance services or equipment](#).
- C. Be consistent with policies and procedures that apply uniformly to both Federally-financed and other activities of the Academy.
- D. Be accorded consistent treatment. A cost cannot be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to a Federal award as an indirect cost under another award.
- E. Be determined in accordance with generally accepted accounting principles.
- F. Be representative of actual cost, net of all applicable credits or offsets.

The term "applicable credits" refers to those receipts or reductions of expenditures that operate to offset or reduce expense items allocable to the Federal award. Typical examples of such transactions are: purchase discounts; rebates or allowances; recoveries or indemnities on losses; and adjustments of overpayments or erroneous charges. To the extent that such credits accruing to or received by the State relate to the Federal award, they shall be credited to the Federal award, either as a cost reduction or a cash refund, as appropriate.

- G. Be not included as a match or cost-share, unless the specific Federal program authorizes Federal costs to be treated as such.
- H. Be adequately documented:
 1. in the case of personnel services, the Educational Service Provider shall implement a system for Academy personnel to account for time and efforts expended on grant funded programs to assure that only permissible personnel expenses are allocated;
 2. in the case of other costs, all receipts and other invoice materials shall be retained, along with any documentation identifying the need and purpose for such expenditure if not otherwise clear.
- I. Be incurred during the approved budget period.

The budget period means the time interval from the start date of a funded portion of an award to the end date of that funded portion during which recipients are authorized to carry out authorized work and expend the funds awarded, including any funds carried forward or other revisions pursuant to the law. Prior written approval from the Federal awarding agency or State pass through entity may be required to carry forward unobligated balances to subsequent budget periods, unless waived.

Selected Items of Cost

The Educational Service Provider shall follow the rules for selected items of cost at 2 C.F.R. Part 200, Subpart E when charging these specific expenditures to a Federal grant. When applicable, the Educational Service Provider shall check costs against the selected items of cost requirements to ensure the cost is allowable. In addition, State, Academy and program-specific rules, including the terms and conditions of the award, may deem a cost as unallowable and Academy personnel shall follow those rules as well.

The following rules of allowability must apply to equipment and other capital expenditures:

- A. Capital expenditures for general purpose equipment, buildings, and land are unallowable as direct charges, except with the prior written approval of the Federal awarding agency or pass-through entity.
- B. Capital expenditures for special purpose equipment are allowable as direct costs, provided that items with a unit cost of \$5,000 or more have the prior written approval of the Federal awarding agency or pass-through entity.
- C. Capital expenditures for improvements to land, buildings, or equipment that materially increase their value or useful life are unallowable as a direct cost except with the prior written approval of the Federal awarding agency, or pass-through entity.
- D. [All Federally-funded contracts in excess of \\$2,000 related to construction, alterations, repairs, painting, decorating, etc. must comply with Davis-Bacon prevailing wage requirements.](#)
- E. Allowability of depreciation on buildings, capital improvements, and equipment shall be in accordance with 2 CFR 200.436 and 2 CFR 200.465.
- F. When approved as a direct cost by the Federal awarding agency or pass-through entity under Sections A-C, capital expenditures will be charged in the period in which the expenditure is incurred, or as otherwise determined appropriate and negotiated with the Federal awarding agency.
- G. If the Academy is instructed by the Federal awarding agency to otherwise dispose of or transfer the equipment, the costs of such disposal or transfer are allowable.

Cost Compliance

The Educational Service Provider shall require that grant program funds are expended and are accounted for consistent with the requirements of the specific program and as identified in the grant application. Compliance monitoring includes accounting for direct or indirect costs and reporting them as permitted or required by each grant. Costs incurred for the same purpose in like circumstances shall be treated consistently as either direct or indirect costs, but may not be double charged or inconsistently charged as both.

Determining Whether a Cost is Direct or Indirect:

- A. Direct costs are those costs that can be identified specifically with a particular final cost objective, such as a Federal award, or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy.

These costs may include: salaries and fringe benefits of employees working directly on a grant-funded project; purchased services contracted for performance under the grant; travel of employees working directly on a grant-funded project; materials, supplies, and equipment purchased for use on a specific grant; program evaluation costs or other institutional service operations; and infrastructure costs directly attributable to the program (such as long distance telephone calls specific to the program, etc.). Direct costs may also include capital expenditures if approved by the Federal awarding agency or pass-through entity, as well as capital expenditures for special purpose equipment with a unit cost of less than \$5,000.

- B. Indirect costs are those that have been incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. Costs incurred for the same purpose in like circumstances shall be treated consistently as either direct or indirect costs.

These costs may include: general data processing, human resources, utility costs, maintenance, accounting, etc.

Federal education programs with supplement not supplant provisions must use a restricted indirect cost rate. In a restricted rate, indirect costs are limited to general management costs. General management costs do not include divisional administration that is limited to one component of the Academy, the Board, compensation of the School Leader, compensation of the chief executive officer of any component of the Academy, and operation of the immediate offices of these officers.

The salaries of administrative and clerical staff should normally be treated as indirect costs. Direct charging of these costs may be appropriate only if all of the following conditions are met:

1. Administrative or clerical services are integral to a project or activity.
2. Individuals involved can be specifically identified with the project or activity.
3. Such costs are explicitly included in the budget or have the prior written approval of the Federal awarding agency.
4. The costs are not also recovered as indirect costs.

Where a Federal program has a specific cap on the percentage of administrative costs that may be charged to a grant, that cap shall include all direct administrative charges as well as any recovered indirect charges.

Effort should be given to identify costs as direct costs whenever practical, but allocation of indirect costs may be used where not prohibited and where indirect cost allocation is approved ahead of time by the Michigan Department of Education (MDE) or the pass-through entity (Federal funds subject to 2 C.F.R. Part 200 pertaining to determining indirect cost allocation).

Equipment and other capital expenditures are unallowable as indirect costs.

Timely Obligation of Funds

Financial obligations are orders placed for property and services, contracts and subawards made, and similar transactions that require payment. This term is used when referencing a recipient's or subrecipient's use of funds under a Federal award.

The following list illustrates when funds are determined to be obligated under the U.S. Department of Education ("USDOE") regulations:

If the obligation is for:

- A. Acquisition of property - on the date which the Academy makes a binding written commitment to acquire the property.
- B. Personal services by an employee of the Academy or Educational Service Provider - when the services are performed.
- C. Personal services by a contractor who is not an employee of the Academy on the date which the Academy makes a binding written commitment to obtain the services.

- D. Performance of work other than personal services - on the date when the Academy makes a binding written commitment to obtain the work.
- E. Public utility services - when the Academy receives the services.
- F. Travel - when the travel is taken.
- G. Rental of property - when the Academy uses the property.
- H. A pre-agreement cost that was properly approved by the Secretary (USDOE) under the cost principles in 2 C.F.R. Part 200, Subpart E - Cost Principles - on the first day of the project period.

Period of Performance

All financial obligations must occur during the period of performance. Period of performance means the total estimated time interval between the start of an initial Federal award when the Academy is permitted to carry out the work authorized by the grant and the planned end date. The period of performance may include one or more funded portions or budget periods. The period of performance is dictated by statute and will be indicated in the grant award notification ("GAN"). As a general rule, State-administered Federal funds are available for obligation within the year that Congress appropriates the funds for. However, given the unique nature of educational institutions, for many Federal education grants, the period of performance is twenty-seven (27) months. This maximum period includes a fifteen (15) month period of initial availability, plus a twelve (12) month period for carryover. For direct grants, the period of performance is generally identified in the GAN.

In the case of a State-administered grant, financial obligations under a grant may not be made until the application is approved or is in substantially approvable form, whichever is later. In the case of a direct grant, a grantee may use grant funds only for obligations it makes during the grant period, unless an agreement exists with the awarding agency or the pass-through entity (e.g., MDE) to reimburse for pre-approval expenses.

If a Federal awarding agency or pass-through entity approves an extension, or if the Academy extends under C.F.R. 200.308(e)(2), the Period of Performance will be amended to end at the completion of the extension. If a termination occurs, the Period of Performance will be amended to end upon the effective date of termination. If a renewal is issued, a distinct Period of Performance will begin.

For both State-administered and direct grants, regardless of the period of availability, the Academy shall liquidate all financial obligations incurred under the award not later than ninety (90) days after the end of the funding period unless an extension is authorized. Any funds not obligated within the period of performance or liquidated within the appropriate timeframe are said to lapse and shall be returned to the awarding agency. Consequently, the Educational Service Provider shall closely monitor grant spending throughout the grant cycle.

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Adoption Date: **08.16**
Classification: **Legal Content**
Revised Dates: **5/18/21; ; 12.21**

REVISED POLICY - SPRING 2022 -- PROCUREMENT - FEDERAL GRANTS/FUNDS

Reference:

2 C.F.R. 200.317 - .326, Appendix II to Part 200
2 C.F.R. 200.520

Procurement of all supplies, materials, equipment, and services paid for from Federal funds or Academy matching funds shall be made in accordance with all applicable Federal, State, and local statutes and/or regulations, the terms and conditions of the Federal grant, Board policies, and administrative procedures.

The Educational Service Provider shall have and use a procurement and contract administration system in accordance with the USDOE requirements (2 CFR 200.317-.326), including affirmative steps for small and minority businesses and women's business enterprises, for the administration and management of Federal grants and Federally-funded programs. The Educational Service Provider shall maintain oversight that requires contractors to perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. Except as otherwise noted, procurement transactions shall conform to the provisions of the Academy's documented general purchasing Policy 6320 and AG 6320.

[All Federally-funded contracts in excess of \\$2,000 related to construction, alteration, repairs, painting, decorating, etc. must comply with Davis-Bacon prevailing wage requirements.](#)

All Academy employees, whether employed by the Board or by an Educational Service Provider, all officers of the Academy, and all agents of the Academy who have purchasing authority shall abide by the standards of conduct covering conflicts of interest and governing the actions of its employees, whether employed by the Board or by an Educational Service Provider, officers, and agents engaged in the selection, award, and administration of contracts as established in Policy 1130 and Policy 3110 – Conflict of Interest.

The Academy will avoid acquisition of unnecessary or duplicative items. Additionally, consideration shall be given to consolidating or breaking out procurements to obtain a more economical purchase. And, where appropriate, an analysis shall be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach. These considerations are given as part of the process to determine the allowability of each purchase made with Federal funds.

To foster greater economy and efficiency, the Academy may enter into State and local intergovernmental agreements where appropriate for procurement or use of common or shared goods and services.

Competition

All procurement transactions for the acquisition of property or services required under a Federal award paid for from Federal funds or Academy matching funds shall be conducted in a manner that encourages full and open competition and that is in accordance with good administrative practice and sound business judgement. In order to promote objective contractor performance and eliminate unfair competitive advantage, the Academy shall exclude any contractor that has developed or drafted specifications, requirements, statements of work, or invitations for bids or requests for proposals from competition for such procurements.

Some of the situations considered to be restrictive of competition include, but are not limited to, the following:

- A. unreasonable requirements on firms in order for them to qualify to do business;

- B. unnecessary experience and excessive bonding requirements;
- C. noncompetitive pricing practices between firms or between affiliated companies;
- D. noncompetitive contracts to consultants that are on retainer contracts;
- E. organizational conflicts of interest;
- F. specification of only a "brand name" product instead of allowing for an "or equal" product to be offered and describing the performance or other relevant requirements of the procurement; and
- G. any arbitrary action in the procurement process.

Further, the Academy does not use statutorily or administratively imposed State, local, or tribal geographical preferences in the evaluation of bids or proposals, unless (1) an applicable Federal statute expressly mandates or encourages a geographic preference; or (2) the Academy is contracting for architectural and engineering services, in which case geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

To the extent that the Academy uses a pre-qualified list of persons, firms or products to acquire goods and services that are subject to this policy, the pre-qualified list includes enough qualified sources as to ensure maximum open and free competition. The Academy allows vendors to apply for consideration to be placed on the list continuously.

The Academy shall require that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to provide maximum open and free competition. The Academy shall not preclude potential bidders from qualifying during the solicitation period.

Solicitation Language (Purchasing Procedures)

The Academy shall have written procurement procedures that require that all solicitations made pursuant to this policy incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, shall set forth those minimum essential characteristics and standards to which it shall conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible.

When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which shall be met by offers shall be clearly stated; and identify all requirements which the offerors shall fulfill and all other factors to be used in evaluating bids or proposals.

The Academy will not approve any expenditure for an unauthorized purchase or contract.

Procurement Methods

The Academy shall have and use documented procedures, consistent with the standards described above for the following methods of procurement:

A. Informal Procurement Methods

When the value of the procurement for property or services under a Federal award does not exceed the simplified acquisition threshold, or a lower threshold established by the State, formal procurement methods are not required. The Academy may use informal procurement methods to expedite the completion of its transactions and minimize the associated administrative burden and

cost. The informal methods used for procurement of property or services at or below the simplified acquisition threshold include:

1. Micro-purchases

Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed \$10,000. To the maximum extent practicable, the Academy should distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be made without soliciting competitive quotations if Educational Service Provider considers the price to be reasonable based on research, experience, purchase history or other relevant information and documents are filed accordingly. The Academy shall maintain evidence of this reasonableness in the records of all purchases made by this method.

Unless otherwise defined by State or local law, Academies are responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of the risk, and its documented procurement procedures. The micro-purchase threshold used by the Academy shall be authorized or not prohibited under State, local, or tribal laws or regulations. An Academy which is qualified as a low-risk auditee for the most recent audit (C.F.R. 200.520) may increase the micro-purchase threshold up to [the State threshold \\$25,288](#). An eligible Academy may self-certify the micro-purchase threshold on an annual basis (~~not to exceed \$ 25,288~~) after completing the annual internal institutional risk assessment to identify, mitigate, and manage financial risks. The self-certification, in accordance with C.F.R. 200.334, must include a justification, clear identification of the threshold, and supporting documentation of the qualifications listed above.

2. Small Purchases

Small purchases include the acquisition of property or services, the aggregate dollar amount of which is higher than the micro-purchase threshold but does not exceed the simplified acquisition threshold ~~of \$23,000~~. Small purchase procedures require that price or rate quotations shall be obtained from an adequate number of qualified sources.

Academies are responsible for determining an appropriate simplified acquisition threshold based on internal controls, an evaluation of risk, and its documented procurement procedures which must not exceed the threshold established in the Federal Acquisition Regulations (FAR). When applicable, a lower simplified acquisition threshold used by the non-Federal entity must be authorized or not prohibited under State, local, or tribal laws or regulations.

B. Formal Procurement Methods

When the value of the procurement for property or services under a Federal award exceeds the simplified acquisition threshold, or a lower threshold established by the State, formal procurement methods are required. Formal procurement methods require following documented procedures. Formal procurement methods also require public advertising unless a non-competitive procurement method can be used in accordance with the standards on competition in C.F.R. 200.319 or non-competitive procurement. The formal methods of procurement are:

1. Sealed Bids

Sealed, competitive bids shall be obtained when the purchase of, and contract for, single items of supplies, materials, or equipment which amounts more than to the amount allowed by Michigan statute and when the Board determines to build, repair, enlarge, improve, or demolish an academy building/facility the cost of which will exceed the amount allowed by Michigan statute.

In order for sealed bidding to be feasible, the following conditions shall be present:

- a. a complete, adequate, and realistic specification or purchase description is available;
- b. two (2) or more responsible bidders are willing and able to compete effectively for the business; and
- c. the procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

When sealed bids are used, the following requirements apply:

- a. Bids shall be solicited in accordance with the provisions of State law and Policy 6320. Bids shall be solicited from an adequate number of qualified suppliers, providing sufficient response time prior to the date set for the opening of bids. The invitation to bid shall be publicly advertised.
- b. The invitation for bids will include product/contract specifications and pertinent attachments and shall define the items and/or services required in order for the bidder to properly respond.
- c. All bids will be opened at the time and place prescribed in the invitation for bids; bids will be opened publicly.
- d. A firm fixed price contract award will be made in writing to the lowest responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts may only be used to determine the low bid when prior experience indicates that such discounts are usually taken.
- e. The Board reserves the right to reject any or all bids for sound documented reason.

2. Proposals

Procurement by proposals is a method in which either a fixed price or cost-reimbursement type contract is awarded. Proposals are generally used when conditions are not appropriate for the use of sealed bids or in the case of a recognized exception to the sealed bid method. (See Policy 6320 for competitive bid procedures.)

If this method is used, the following requirements apply:

- a. Requests for proposals shall be publicized and identify all evaluation factors and their relative importance. Any response to the publicized requests for proposals shall be considered to the maximum extent practical.
- b. Proposals shall be solicited from an adequate number of sources.
- c. The Academy shall use its written method for conducting technical evaluations of the proposals received and for selecting recipients.
- d. Contracts shall be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.

The Academy may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E that firms are a potential source to perform the proposed effort.

3. Noncompetitive Procurement

Procurement by noncompetitive proposals allows for solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

- a. micro-purchases
- b. the item is available only from a single source
- c. the public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation
- d. the Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the Academy
- e. after solicitation of a number of sources, competition is determined to be inadequate.

Domestic Preference for Procurement

As appropriate and to the extent consistent with law, the Academy shall, to the extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. Such requirements shall be included in all subawards including all contracts and purchase orders for work or products under the Federal award.

Contract/Price Analysis

The Academy shall perform a cost or price analysis in connection with every procurement action in excess of \$250,000, including contract modifications. A cost analysis generally means evaluating the separate cost elements that make up the total price, while a price analysis means evaluating the total price, without looking at the individual cost elements.

The method and degree of analysis is dependent on the facts surrounding the particular procurement situation; however, the Academy shall come to an independent estimate prior to receiving bids or proposals.

When performing a cost analysis, the Academy shall negotiate profit as a separate element of the price. To establish a fair and reasonable profit, consideration is given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

Time and Materials Contracts

The Academy uses a time and materials type contract only (1) after a determination that no other contract is suitable; and (2) if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to the Academy is the sum of the actual costs of materials, and direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, the Academy sets a ceiling price for each contract that the contractor exceeds at its own risk. Further, the Academy shall assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

Suspension and Debarment

The Academy will award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of the proposed procurement. All purchasing decisions shall be made in the best interests of the Academy and shall seek to obtain the maximum value for each dollar

expended. When making a purchasing decision, the Academy shall consider such factors as (1) contractor integrity; (2) compliance with public policy; (3) record of past performance; and (4) financial and technical resources.

The Educational Service Provider shall have the authority to suspend or debar a person/corporation, for cause, from consideration or award of further contracts. The Academy is subject to and shall abide by the nonprocurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR Part 180.

Suspension is an action taken by the Academy that immediately prohibits a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 CFR chapter 1) for a temporary period, pending completion of an agency investigation and any judicial or administrative proceedings that may ensue. A person so excluded is suspended. (2 CFR Part 180 Subpart G)

Debarment is an action taken by the Educational Service Provider to exclude a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 CFR chapter 1). A person so excluded is debarred. (2 CFR Part 180 Subpart H)

The Academy shall not subcontract with or award subgrants to any person or company who is debarred or suspended. For contracts over \$25,000, the Academy shall confirm that the vendor is not debarred or suspended by either checking the Federal government's System for Award Management, which maintains a list of such debarred or suspended vendors at www.sam.gov; collecting a certification from the vendor; or adding a clause or condition to the covered transaction with that vendor. (2 CFR Part 180 Subpart C)

Bid Protest

The Academy maintains the following protest procedures to handle and resolve disputes relating to procurements and, in all instances, discloses information regarding the protest to the awarding agency.

A bidder who wishes to file a bid protest shall file such notice and follow procedures prescribed by the Request For Proposals (RFPs) or the individual bid specifications package, for resolution. Bid protests shall be filed in writing with the Educational Service Provider within seventy-two (72) hours of the opening of the bids in protest.

Within five (5) days of receipt of a protest, the Educational Service Provider shall review the protest as submitted and render a decision regarding the merits of the protest and any impact on the acceptance and rejection of bids submitted. Notice of the filing of a bid protest shall be communicated to the Board and shall be so noted in any subsequent recommendation for the acceptance of bids and awarding of contracts.

Failure to file a notice of intent to protest, or failure to file a formal written protest within the time prescribed, shall constitute a waiver of proceedings.

Maintenance of Procurement Records

The Academy shall maintain records sufficient to detail the history of all procurements. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price (including a cost or price analysis).

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