

**SCOTTSDALE UNIFIED SCHOOL DISTRICT #48
MARICOPA COUNTY, ARIZONA**

In re:

LOUIS ROSS HARTWELL,

Administrator.

**STATEMENT OF CHARGES AND
PLACEMENT ON ADMINISTRATIVE
LEAVE OF ABSENCE**

Pursuant to A.R.S. §15-539, Acting Superintendent Dr. Amy Fuller presents this Statement of Charges against Chief Business and Operations Officer (“CBOO”) Louis R. Hartwell (“Administrator”) to the Governing Board of the Scottsdale Unified School District #48 (“the District”), at its public Governing Board meeting held on March 20, 2018.

The Administration charges that one or a combination of the following charges provides good and just cause for dismissal of Administrator, and his immediate placement on Administrative Leave of Absence with pay pursuant to A.R.S. § 15-540 pending the outcome of this matter.

I. STATEMENT OF RELEVANT GOVERNING BOARD POLICIES, ADMINISTRATIVE REGULATIONS, STATUTES, RULES AND CONTRACT PROVISIONS ALLEGEDLY VIOLATED BY ADMINISTRATOR.

A. Governing Board Policy (“Policy”) GBEA, *Staff Ethics*

Administrator is charged with violating Governing Board Policy (“Policy”) GBEA, *Staff Ethics*, which provides in pertinent part:

All employees, including Administrator, shall:

- Strive for the maintenance of efficiency and knowledge of developments in the employee’s field of work.
- Fulfill job responsibilities with honesty and integrity.
- Implement the Governing Board's policies and administrative rules and regulations.

B. Administrative Regulation (“Regulation”) GBEB-R, *Staff Conduct*

Administrator is charged with violating Administrative Regulation (“Regulation”) GBEB-R, *Staff Conduct*, which states in pertinent part:

No employee, while on or using school property, otherwise acting as an agent, or working in an official capacity for the District shall engage in:

- A violation of District policies and regulations.
- Any conduct violating federal, state, or applicable municipal law or regulation.
- Any other conduct that may obstruct, disrupt, or interfere with teaching, research, service, administrative, or disciplinary functions of the District, or any other activity sponsored or approved by the Board.

In addition to the foregoing, all staff members are expected to:

- Thoroughly acquaint themselves with the rules, regulations, and other information applicable to them contained within the policies of the Board.
- Conduct themselves in a manner consistent with effective and orderly education and to protect . . . District property.

C. Policy GCF, Professional Staff Hiring

Administrator is charged with violating Policy GCF, *Professional Staff Hiring* which states in pertinent part:

Any employee's misstatement of fact that is material to qualifications for employment or the determination of salary shall be considered by the Board to constitute grounds for dismissal.

D. Policy DI, Fiscal Accounting and Reporting

Administrator is charged with violating Policy DI, *Fiscal Accounting and Reporting* which states in pertinent part:

The Uniform System of Financial Records developed by the State Department of Education and the Auditor General's Office shall be used to provide for the appropriate separation of accounts and funds.

E. Policy DIA, Accounting System

Administrator is charged with violating Policy DIA, *Accounting System*, which states in pertinent part:

Records of all phases of the business operation shall be kept in strict accordance with the Uniform System of Financial Records, other applicable laws, and the policies of the Board.

F. Policy DIE, Audits/Financial Monitoring

Administrator is charged with violating Policy DIE, *Audits/Financial Monitoring* which states in pertinent part:

The Governing Board directs the Superintendent to implement procedures that assure District compliance with all state and federal requirements for financial monitoring and audits.

The procurement of the necessary services shall be consistent with the District's policy on bidding and purchasing procedures. Any allocation of costs for the services shall conform to the requirements of the Uniform System of Financial Records (U.S.F.R.).

G. Policy DJE, Bidding/Purchasing Procedures

Administrator is charged with violating Policy DIJ, *Bidding/Purchasing Procedures*, which states in pertinent part:

Verbal price quotations will be requested from at least three (3) vendors for a transaction in excess of ten thousand dollars (\$10,000) but less than fifty thousand dollars (\$50,000).

H. Policy DJE, Payment Procedures

Administrator is charged with violating Policy DIJ, *Payment Procedures*, which states in pertinent part:

The Superintendent will implement procedures for the review of purchase invoices to determine that items or services are among those budgeted, itemized goods or services have been satisfactorily supplied, funds are available to cover payment, and invoices are in order and for the contracted amounts.

I. Administrator's 2017-2018 Employment Contract

Administrator is charged with violating the following provision of Administrator's 2017-2018 Employment Contract:

Administrator agrees to perform the customary duties of their assigned position . . . Administrator agrees to faithfully comply with . . . SUSD Governing Board Policies, Rules, and Regulations.

J. Uniform System of Financial Records (USFR) Requirements

Administrator is charged with violating the following provisions of the USFR requirements for public school districts:

- USFR guidelines for Arizona School Districts require "budget control on a daily basis" which includes "reviewing purchase orders to monitor the level of encumbrances and to determine the remaining unencumbered balances." Office

of the Arizona Auditor General, Uniform System of Financial Records for Arizona School Districts, p. IV-6.

- “Sequentially numbered purchase orders should be prepared and approved by an authorized district official for all district expenditures before the goods or services are ordered...” *Id.* at p. VI-G-1.
- “After a contract is awarded, districts should issue a written contract or prepare and approve a purchase order before ordering goods or services.” *Id.* at p. VI-G-10.
- Purchase orders are an essential element of USFR “Encumbrance Accounting.” *Id.* at p. VI-B-7.
- “For proper accounting and financial reporting, districts must account for their financial position and results of operations in accordance with generally accepted accounting principles applicable to governmental units, which requires using a fund accounting system. Fund accounting systems provide the means to separate financial resources into funds to determine compliance with finance-related legal, contractual, or other restrictive requirements; and to aid management by separating transactions related to certain restrictions and specific district functions or activities.” *Id.* at p. V-A-1.
- “The district should obtain oral price quotations from at least three vendors for purchases costing at least \$10,000, but less than \$50,000.” *Id.* at p. VI-G-9.

K. Arizona Administrative Code

The Arizona Administrative Code provides as follows:

- “All school districts shall implement the current version of the Uniform System of Financial Records, as prescribed by the Auditor General.” A.A.C. R7-2-803.
- For purchases of between \$10,000.00 and \$50,000.00, the District must follow the guidelines prescribed by the Auditor General in the Uniform System of Financial Records. A.A.C. R7-2-1002(D)(3).
- “No project or purchase may be divided or sequenced into separate projects or purchases in order to avoid the limits prescribed in Articles 10 and 11.” A.A.C. R7-2-1003(I).

II. SPECIFIC FACTUAL ALLEGATIONS THAT SUPPORT THIS STATEMENT OF CHARGES.

The specific factual allegations set forth below support the charges that Administrator engaged in objectionable conduct, and conduct that violates District Policies, Administrative Regulations, State laws and rules and Administrator’s employment Contract with the District.

1. On or about June 29, 2017, Administrator approved a purchase order for work on Phase I of the Hopi Elementary Construction project that was blanket purchase order that did not distinguish line items on purchase orders that segregated costs being paid by Bond Building funds and by the Arizona School Facilities' Board's Adjacent Ways funding. The purchase order also failed to identify an amount for owner's contingency. Administrator's alleged failure constituted a violation of A.A.C. R7-2-803 and the USFR guidelines referenced above.
2. On or about July 18, 2017, Administrator approved a purchase order for high school track and field improvements at Saguaro, Coronado and Chaparral high schools. The purchase order was a bulk purchase order that did not make allocations to the three schools, nor did it identify an amount to be funded from owner's contingency. In addition, Administrator failed to issue a second purchase order for a change order of \$68,532.00. Administrator's alleged failure constituted a violation of A.A.C. R7-2-803 and the USFR guidelines referenced above.
3. On or about November 17, 2017, Administrator approved a purchase order for the Pima Elementary School Project Phase I that was blanket purchase order for \$18,107,142.00 that did not distinguish line items on purchase orders that segregated costs being paid by Bond Building funds and by the Arizona School Facilities' Board's Adjacent Ways funding. The purchase order also failed to identify an amount for owner's contingency. Administrator's alleged failure constituted a violation of A.A.C. R7-2-803 and the USFR guidelines referenced above.
4. On or about December 22, 2017 and thereafter, Administrator failed to ensure that a purchase order was issued prior to allowing the contractor to begin work on Phase II of the Hopi Elementary Construction project. Phase II of the Hopi project has a contract value of \$16,988,366.00. Administrator's alleged failure constituted a violation of A.A.C. R7-2-803 and the USFR guidelines referenced above.
5. For work that Hunt & Caraway Architects (HCA) billed to the District, the Master Contract with HCA provided that its fees would be six percent (6%) of costs of construction. Purchase orders approved by the District stated the rate to be 7%. HCA's invoices billed at the rate of seven percent (7%) On and after May 8, 2017, when Administrator became Chief Business and Operations Officer, Administrator approved purchase orders for payment at the higher rate. Administrator either did not look back at the HCA master contract before approving payment, or he approved payment knowing the rate was higher than the contract allowed. Administrator's alleged conduct was in violation of Policies GEBA, DI, DIA, DIE; Regulation GBEB-R; and A.A.C. R7-2-803.
6. Prior to Administrator's initial hire as an employee of the District, Administrator provided consulting services pursuant to two separate purchase orders that he knew or should have known cumulatively exceeded the allowable amount of \$10,000.00 that would have required three verbal quotes, and that also resulted in a total payment on the second purchase order that exceeded \$5,000.00. Specifically:

- a. For the 2015-16 fiscal year, the Superintendent issued a purchase order for consulting services in the amount of \$4,900.00; and
- b. For the 2015-16 fiscal year, the Superintendent issued a second purchase order for \$4,900.00 and subsequently approved an increase of \$417.59 above the approved purchase order amount.

Administrator's alleged misconduct is bid-splitting in violation of A.A.C. R7-2-1003(I).

7. Administrator's employment application with the District differs dramatically from what he represents to the public through multiple websites describing his qualifications. Specifically:
 - a. On the website for Bonocore Technology Partners, Administrator has misrepresented that he graduated from the University of Kentucky with a B.S. degree and that he has an M.B.A. from Rutgers University.
 - b. On the website for Uru Technologies, Ltd., Administrator has misrepresented that he graduated from the University of Kentucky with a B.S. degree and that he has an M.B.A. from Rutgers University.
 - c. On Administrator's ZoomInfo profile, Administrator has misrepresented that he graduated from the University of Kentucky with a B.S. degree and that he has an M.B.A. from Rutgers University.

Although the disclosure of his educational history in Administrator's employment application did not make those false claims, the fact that he made false claims publicly undermines his credibility and reputation for truthfulness. The position of Chief Business Operations Officer for the District requires public confidence that the position is held by someone who is honest and has integrity. *See* Policy GBEA, *Staff Ethics*. Exhibiting dishonesty is a basis for dismissal. *See* Policy GCQF, *Dismissal of Professional Staff Members*.

8. Administrator does not hold the requisite credentials to hold the CBOO position and his job performance shows he is unqualified for the position. Specifically:
 - a. The CBOO position requires an MBA. Administrator does not have an MBA.
 - b. On or about January 31, 2018, Administrator approached Individual A and Employee A with requests that purchase orders be issued without first complying with procurement rules.¹

¹ To protect the privacy of the Employees, their names are omitted, but Administrator will be provided with their names.

- c. On or about January 31, 2018 or February 1, 2018, Superintendent commented to Employee A that Administrator is not knowledgeable about procurement issues and would not be involved in procurement matters prospectively.
- d. As set forth in paragraphs II (1)-(6) above, Administrator has demonstrated that he is not sufficiently knowledgeable about procurement laws and procedures, and/or has failed or refused to comply with the same.

Exhibiting incompetence or inefficiency or neglecting duties are bases for dismissal. *See Policy GCQF, Dismissal of Professional Staff Members.*

9. Between November 18, 2016 and February 14, 2018, Administrator repeatedly directed Employee B to access the District's email archive to locate emails to/from and/or between Governing Board Members, other District employees and members of the public during the time when members of the public were bringing their concerns regarding the Superintendent and the former Chief Financial Officer to the Board's attention. Employee B did not typically have access to the archiving system and was not the person who would have been responsible for using the archive system to search for and retrieve email. The email archive system is a limited-access system. Its purpose is to serve as the official repository of District records. Administrator ordered Employee C not to disclose his searches to any other District employee. Employee was ordered to download batches of emails to an external drive or drives to avoid being detected through the entry logs of the archive system. "Being involved in misuse or unauthorized use of school property" is a basis for dismissal. *See Policy GCQF, Dismissal of Professional Staff Members.*
10. Administrator completed his initial employment application with the District on or about September 5, 2016. In doing so, Administrator did not disclose important details of his recent employment history, including his work at the Higley Unified School District. Had he disclosed his employment history with HUSD, his prior business relations with the Superintendent would have been known. Administrator's alleged misconduct constitutes a violation of Policy GCF, *Professional Staff Hiring.*
11. Administrator was on the District's Construction Manager at Risk (CMAR) Committee when the District was reviewing bids for the Cheyenne and Hohokam projects. Also, as Chief Business and Operations Officer, Administrator was the delegee of the Superintendent charged with responsibility "for purchasing, contracting, competitive bidding, and receiving and processing of all bid protests, in accordance with the Arizona school district procurement rules, including A.A.C. R7-2-1141 *et seq.*" District Regulation DIJ, *Bidding/Purchasing Procedures.* Administrator failed to confirm that the CMAR Committee was properly constituted. Administrator's failure to provide oversight and management and supervision of the competitive bidding process led to legal action against the

District by the Attorney General for the State of Arizona. Exhibiting incompetence or inefficiency or neglecting duties are bases for dismissal. *See Policy GCQF, Dismissal of Professional Staff Members.*

III. CONCLUSION.

The above charges and specific facts support a finding that Administrator engaged in objectionable and unprofessional conduct, in violation of Governing Board Policies and Administrative Regulations, as well as in violation of ethical standards set forth in the same and conduct that violates the terms of Administrator's 2017-2018 Administrator Contract with the District.

The above charges and specific facts constitute good and just cause to recommend Administrator dismissal to the Governing Board in accordance with A.R.S. §§ 15-539 and 15-540. A copy of the above-referenced exhibits, District policies, and A.R.S. § 15-501, 15-538.01, 15-539 through §15-542, and §15-544 through §15-547, are attached hereto and incorporated herein.

Respectfully submitted to the Governing Board on March 20, 2018.

Scottsdale Unified School District #48 by:

Dr. Amy Fuller, Acting Superintendent

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