

AGENDA

REGULAR MEETING GOVERNING BOARD

12:00 P.M. April 7, 2022

Ed Tech JPA will hold a Board meeting on April 7, 2022, at 12:00 PM at the Irvine Unified School District Office: 5050 Barranca Parkway, Irvine, CA 92604, Fullerton School District Office: 1401 W. Valencia Drive, Fullerton, CA 92883, Capistrano Unified School District Office: 33122 Valle Road, San Juan Capistrano, CA 92675, Clovis Unified School District Office: 1450 Herndon Avenue, Clovis, CA 93611, El Dorado County Office of Education Office: 6767 Green Valley Road, Placerville, CA 95667, San Juan Unified School District Office: 3738 Walnut Avenue, Carmichael, CA 95608, San Ramon Valley Unified School District Office: 3280 Crow Canyon Road, San Ramon, CA 94526.

The meetings of the Board at which official action is taken shall be public meetings, and no person shall be excluded therefrom.

The agenda will be published at least 72 hours prior to the meeting. Supporting documentation will be provided at the meeting or emailed electronically to members prior to the meeting as it becomes available.

President	Brianne Ford
Vice-President	Jeremy Davis
Secretary	David Seabury
Treasurer	Michael Johnston

Board of Directors Founding Members

Irvine Unified	Founding Member	Brianne Ford/alternate Michelle Bennett
Capistrano Unified	Founding Member	Sean Rozell/alternate Stephanie Avera
Clovis Unified	Founding Member	Michael Johnston/alternate Susan Rutledge
Fullerton	Founding Member	Jeremy Davis/alternate Mike McAdam
El Dorado County of Education	Founding Member	David Seabury/alternate Kevin Monsma
San Juan Unified	Founding Member	Peter Skibitzki/alternate Susan Kane
San Ramon Valley Unified	Founding Member	Daniel Hillman/alternate Greg Pitzer

Agenda

1. Determination of a quorum and call to order - roll call.
2. Approve the Minutes of the previous regular meeting.
3. Public Comment

Anyone may address the Board on any item that is within the Board's subject matter jurisdiction. However, the Board may not take action on any item not on this agenda except as authorized by Government Code section 54954.2. Each topic or item is limited to 30 minutes; each speaker is limited to 3 minutes.

4. Approval of the Agenda
5. Board Member and Staff Reports
6. Treasurer Report

Michael Johnston will provide an update to the board.

7. Standing Reports

- 7.a.** Membership
- 7.b.** Communications
- 7.c.** Procurement
- 7.d.** Goals and Objectives

8. Consent Agenda

All matters of the Consent Agenda are considered to be routine and will be enacted by the Board in one motion, without prior discussion. At this time an item may be removed from the consent calendar by the Board, staff, or community for discussion.

Recommendation: Approve all items on the Consent Agenda.

Motion:

9. Items Removed from Consent Agenda

- 9.a.**

10. Items of Business (Action)

None.

11. Items for Discussion

- 11.a.** Upcoming Nutrition RFP Administrative Fee

Closing Items

12. Adjournment

Future Meetings

April 28, 2022

Consent Agenda

REGULAR MEETING GOVERNING BOARD

12:00 P.M. April 7, 2022

1. Ratify Approval of New Associate Members.

Background Information: The following organizations have applied for associate membership and, pursuant to Ed Tech JPA's Associate Member Operating Procedures, were granted provisional approval:

- Pierce Joint Unified School District
- Menifee Union School District
- Palisades Charter High School

The Board must formally ratify the approval of their membership.

Recommendation: Ratify associate membership for the organizations listed.

2. Approve Check Register.

Background Information: A Check Register is presented to the Board listing checks which have been issued in accordance with established purchasing procedures of Ed Tech JPA. These checks are presented to the Board for ratification in accordance with the applicable provisions of the Education and Government Code Statutes of the State of California. A copy of the full report is attached.

Recommendation: Ratify issuance of checks as listed.

*Ratify

3. Approve Extension of Vendor Agreement.

Background Information: Ed Tech JPA awarded RFP No. 18/19-03 Learning Management Solution Platform to Instructure, Inc. ("Instructure") at the May 10, 2019 board meeting. Instructure would like to extend the term of the current agreement for an additional two years for a total of five years, in accordance with Education Code Section 17596.

Recommendation: Approve an amendment to the existing agreement with Instructure to extend the term for a total of five (5) years.

*Ratify

4. Approve Extension of Vendor Agreement.

Background Information: Ed Tech JPA awarded RFP No. 18/19-03 Learning Management Solution Platform to Schoology, Inc. ("Schoology") at the May 10, 2019 board meeting. On November 2, 2020 Schoology was acquired by PowerSchool Group, LLC ("PowerSchool") and PowerSchool assumed the agreements with Ed Tech JPA. PowerSchool would like to extend the term of the current agreement for an additional two years for a total of five years, in accordance with Education Code Section 17596.

Recommendation: Approve an amendment to the existing agreement with PowerSchool to extend the term for a total of five (5) years.

*Ratify

5. Approve Amendment to Awarded Vendor Name and Agreement.

Background Information: Ed Tech JPA awarded RFP No. 19/20-06 College and Career Planning Platform to Naviance, Inc. ("Naviance") at the May 28, 2020 board meeting. On March 3, 2021 Naviance was acquired by PowerSchool Group, LLC ("PowerSchool") and PowerSchool assumed the agreements with Ed Tech JPA. PowerSchool would like to offer updated modules in accordance with Section 7.B. of the Master Agreement.

Recommendation: Approve an amendment to the existing award from Naviance, Inc. to PowerSchool Group, LLC; and Resolution No. 19-20-27 awarding RFP No. 19/20-06 College and Career Planning Platform to PowerSchool Group, LLC and other qualifying vendors, as approved by the board, with the administrative fee as approved at the January 23, 2020 board meeting and approving an amendment to the existing agreement specifying that PowerSchool may offer updated modules.

*Ratify

6. Approve Extension of Vendor Agreement.

Background Information: Ed Tech JPA awarded RFP No. 18/19-05 Classroom Management and Student Online Safety to Blocksi Inc ("Blocksi") at the June 27, 2019 board meeting. Blocksi would like to extend the term of the current agreement for an additional two years for a total of five years, in accordance with Education Code Section 17596.

Recommendation: Approve an amendment to the existing agreement with Blocksi to extend the term for a total of five (5) years.

*Ratify



List of Attachments

Board Meeting April 7, 2022

Item No.	Page No.	Description
1	6	February 24, 2022 Board Meeting Minutes
2	9	Annual Goals Progress Report
3	10	Email from Mark Williams regarding Admin Fee Research
4	12	Check Register

EDUCATION TECHNOLOGY JOINT POWERS AUTHORITY

Minutes

REGULAR MEETING OF THE GOVERNING BOARD

February 24, 2022 1:00 P.M.

Irvine Unified School District Office: 5050 Barranca Parkway, Irvine, CA 92604, Fullerton School District Office: 1401 W. Valencia Drive, Fullerton, CA 92883, Capistrano Unified School District Office: 33122 Valle Road, San Juan Capistrano, CA 92675, Clovis Unified School District Office: 1450 Herndon Avenue, Clovis, CA 93611, El Dorado County Office of Education Office: 6767 Green Valley Road, Placerville, CA 95667, San Juan Unified School District Office: 3738 Walnut Avenue, Carmichael, CA 95608, San Ramon Valley Unified School District Office: 3280 Crow Canyon Road, San Ramon, CA 94526

1. CALL TO ORDER AND ROLL CALL

Minutes:

Brianne Ford called the meeting to order at 1:03 PM.

Present:

Brianne Ford with Irvine Unified School District
Greg Pitzer with San Ramon Valley Unified School District
Sean Rozell with Capistrano Unified School District
Susan Rutledge with Clovis Unified School District
Peter Skibitzki with San Juan Unified School District

2. APPROVAL OF MINUTES

Motion Passed: Approve the Minutes from the January 27, 2022 Regular Board Meeting.

Passed with a motion by Peter Skibitzki and a second by Sean Rozell.

Aye Brianne Ford
Aye Susan Rutledge
Aye Peter Skibizki
Aye Jeremy Davis
Aye Sean Rozell

3. PUBLIC COMMENT

Anyone may address the Board on any item that is within the Board's subject matter jurisdiction. However, the Board may not take action on any item not on this agenda except as authorized by Government Code section 54954.2.

4. APPROVAL OF AGENDA

Motion Passed: Adopt Agenda, as presented.

Passed with a motion by Peter Skibitzki and a second by Sean Rozell.

Aye Brianne Ford
Aye Susan Rutledge
Aye Peter Skibizki

Aye Jeremy Davis
Aye Sean Rozell

5. ACCEPTANCE OF BOARD MEMBER AND STAFF REPORTS

Minutes: Board members shared their district/counties' situations related to purchases and administrative matters and matters related to Covid-19.

6. ACCEPTANCE OF TREASURER REPORT

Minutes: None.

7. ACCEPTANCE OF STANDING REPORTS

7.a. Membership

Minutes: Membership was discussed.

7.b. Communications

Minutes: The Quarterly newsletter, upcoming CITE and CASBO conference presentations, and recent and planned communications with members were discussed.

7.c. Procurement

Minutes: Current and Future RFPs were discussed.

7.d. Goals and Objectives

Minutes: The Annual Goals Progress Report and budget projections were reviewed.

8. ACCEPTANCE OF CONSENT AGENDA

8.a. At this time an item may be removed from the consent calendar by the Board, staff, or community for discussion. Approve all items on the Consent Agenda.

Motion Passed: Approve all items on the Consent Agenda.

Passed with a motion by Peter Skibitzki and a second by Sean Rozell.

Aye Brianne Ford
Aye Susan Rutledge
Aye Peter Skibitzki
Aye Jeremy Davis
Aye Sean Rozell

9. ITEMS REMOVED FROM CONSENT AGENDA

9.a. Items Removed from Consent Agenda: None.

10. ITEMS OF BUSINESS (ACTION)

10.a. Second Interim Budget & SACS Report.

Motion: Approve the positive certification of the Second Interim and SACS Report.

Passed with a motion by Peter Skibitzki and a second by Sean Rozell.

Aye Brianne Ford
Aye Susan Rutledge
Aye Peter Skibizki
Aye Jeremy Davis
Aye Sean Rozell

11. ITEMS FOR DISCUSSION

11.a. Review and Discuss Strategic Initiatives

Minutes: Strategic Initiatives were discussed.

11.b. Review the current Administrative Fee (annual review)

Minutes: The Administrative Fee was reviewed and will remain the same. Nutrition management services flat Administrative Fees will be reviewed at a later date.

11.c. Review and Discuss Bylaws (annual review)

Minutes: The Bylaws were reviewed and no changes were proposed.

11.d. Review and Discuss Founding Member Agreement (annual review)

Minutes: The Founding Member Agreement was reviewed and no changes were proposed.

11.e. Discuss the Member Survey in support of the Annual Evaluation and Plan (Pursuant to the Bylaws).

Minutes: Plan to send a member survey in mid-March with a desired mid-April due date.

12. ADJOURNMENT

Motion Passed: Adjourn the meeting at 2:06 pm.

Passed with a motion by Peter Skibitzki and a second by Sean Rozell.

Aye Brianne Ford
Aye Susan Rutledge
Aye Peter Skibizki
Aye Jeremy Davis
Aye Sean Rozell

Future Meetings
March 31, 2022



EDUCATION TECHNOLOGY

JOINT POWERS AUTHORITY

ANNUAL GOALS PROGRESS REPORT

March 2022

The Education Technology Joint Powers Authority (Ed Tech JPA) aims to streamline procurement, provide competitive pricing, and secure favorable technology contracts for educational agencies and other eligible entities.

CURRENT POSITION

June 24, 2021	March 29, 2022	Goal for June 2022
88 Members 1,172,230 Students 15 Completed Procurements 56 Available Contracts \$138,612.33 Admin Fee Revenue 2020-21	100 Members 1,336,823 Students 16 Completed Procurements 65 Available Contracts \$214,152.99 Admin Fee Revenue 2021-22	110 Members 18 Completed Procurements \$160K Admin Fee Revenue 2021-22

Michelle Bennett

From: Mark Williams <mwilliams@f3law.com>
Sent: Tuesday, March 22, 2022 1:00 PM
To: Michelle Bennett
Cc: Diana Dru; Alex Hupke; Mitchell Vanlandingham
Subject: [EXTERNAL] The Issue of Administrative Fee in RFP Nutrition Procurement

CAUTION: Verify the sender before clicking links or opening attachments.

Hi Michelle! Well, I am going down the rabbit hole of food procurement and applicable federal regulations. To begin with, according to the California Department of Education, Nutrition Services Division, the amount of the fee the JPA can charge an associate member is governed by 2 CFR section 200.323(d). This appears to be a mis-cite, because 200.323 does not have any subparts. We think that they must be referring to 2 CFR section 200.324(d), because that section and subsection (d) appear to address our concern of mark-up directly. Section 200.324 is a very awkward fit with the type of procurement we are undertaking (As you know, much of tech is a round hole in which legislators try to stick square pegs.) Section 200.323 appears to address negotiations between individual school districts and food providers. Ironically, they appear to be designed to prevent price gouging by the food companies against the school district. (school districts in the regulation are referred to collectively as NFEs, short for Non-Federal Entities) Most of the text of the section is found in sub- section (b) which addresses scenarios in which there is no competition, presumably no competition in food or food management. No matter what regulatory model is used to analyze our procurement, we can say with some assurance that there is competition in California for food, food management, and digital systems used to aid food management. Therefore subsection (b) does not appear to apply.

Originally, we were going to charge associate members a 4% markup for each system sold. CDE said this simple markup ran afoul of subsection (d), which prohibits "Cost-Plus" payment systems. In a construction setting, cost-plus contracts are viewed with skepticism because they often lead to a lack of cost controls by the contractor and result in excessive payments by the school districts. However, in our case, the total amount will not go up because the JPA fee will not normally go up after the purchase, because the JPA is not directly supplying the fee and does not have a mechanism for "jacking up" the price over the life of the contract. However, getting federal regulators working over 3,000 miles away to see this point will be challenging.

This leads us to two alternatives. First, can we fit into the last subsection, subsection (c)? Secondly, do we fall below the minimum threshold which would mean section 200.323 does not apply at all? Let's start with the second possibility first. Under subsection (a), an NFE (i.e., the JPA) must perform a cost or price analysis more than the Simplified Acquisition Threshold ("SAT"), including contract modifications. "Simplified Acquisition Threshold" is a term of art. It means the dollar amount below which a NFE may purchase property or services using small purchase orders. Again, the reader can see the confusion surrounding the application of this analysis to our procurement. The JPA is not buying anything. We will then have to switch the terms around and convert the JPA into a "middle-man" vendor, while the school district purchasing the Nutrition service is an NFE. If this conversion is accurate, then we need to be mindful of two things. First, there is a hard dollar limit which cannot be exceeded if the "SAT" is to apply. That hard dollar amount is found at 48 CFR, part 2, subpart 2.1.). We are still trying to determine what the exact amount of the SAT is. However, we are comfortable that the Nutrition fee here falls below the SAT. The most current statement of the amount is \$250,000, and which was contained in a Memorandum dated December 3, 2018, from the United States Department of Transportation. Therefore, the fees charged by the JPA are subject to the SAT, and the JPA is not, per se, required to establish the fee at a certain amount.

The question then becomes your original question. First if we cannot, probably, set a fixed fee amount, can we set something other than a flat fees? The answer appears to be "yes", and the regulations encourages fees based on several

variables, applicable to each school district. What are those factors? These include industry profit rates, evaluation of risk, “documented procurement procedures”, internal controls, and quality of past performance. How rigorously these factors are determined may depend on whether the acquisition is considered a “micro-purchase” under 2 CFR Section 200.320. A micro-purchase appears to be purchases under \$50,000. That would apply to a member acquisition from the JPA. In such a case the rates and methods can be relatively informal, and the amounts need only be “reasonable”. Under these factors we think it would be reasonable for the JPA to construct a “Presumptive Fee Schedule” that would contain the factors listed above and could be tiered. Given the complexity of the federal regulations, our “unique procurements” and the varying quality of personnel interpreting them, we cannot say that this approach is fool proof, but think it has a reasonable prospect of success. We hope you found this analysis to be helpful. We can assist you in the preparation of the fee schedule.



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Check Register

SOURCE	EFF DATE	REF1	REF2	REF3	REF4	ACCOUNT	COMMENT	AMOUNT
API	03/15/2022	333673		867314	853	580002-820-0000-8200-7200-7110-0-60082- -82	DIGICERT	666.4