

Corporate Lunchroom Bullies

School board members need to be vigilant about district food service practices and be on guard against food vendor and food service fraud

Bullies usually can be found knocking their classmates' books to the floor in hallways, snapping towels in the locker room, or stealing lunch money in the cafeteria. However, another type of bully lurks in our lunchrooms. Corporate bullies are siphoning large sums from money earmarked for school lunch and breakfast programs.

Some unscrupulous food vendors and service providers engage in fraudulent practices that illegally increase their profit while promising savings for districts. Illegal practices may go undetected for years because these companies reduce district costs while secretly adding to vendors' and providers' profits with various types of food fraud.

Food vendor fraud

The U.S. Food and Drug Administration (FDA) identifies two common methods of food vendor fraud. Vendors can shortchange the weights and measures of food deliveries, or they may substitute inferior or counterfeit food products for higher-quality items.

Typical counterfeit products include maple syrup, olive oil, fish filets, and honey. For example, FDA investigators found a Rhode Island man selling cane sugar syrup labeled as maple syrup. As a result, U.S. senators from Vermont, Maine, and New York co-sponsored the Maple Agriculture Protection and Law

Enforcement (MAPLE) Act in October 2011. If signed into law, MAPLE would make misrepresenting a food product such as maple syrup a felony punishable by a potential five-year prison sentence.

In August 2011, the FDA launched a program using special agents to combat the spread of food vendor fraud. The National Seafood Inspection Laboratory (NSIL) investigated fish sales for the FDA. The NSIL determined that 34 percent of all fish sold in the U.S. are incorrectly labeled by species. Furthermore, it also estimated that only 2 percent of imported fish are inspected each year. This reality raises questions regarding the type and quality of fish served in school cafeterias.

Food substitution is not the only scam perpetrated in cafeterias. Short measuring is another way to cheat districts and consumers. Short measures do not provide the full stated measure of supplies ordered, while charging districts for the full amount. Vendors may use short measures to maintain profit margins when their costs are rising because they are unable to pass along price increases to customers. Typical products short-measured include milk, cheeses, flour, sugar, chicken, and beef.

Cases of product substitution and cheating with weights and measures have been linked to organized crime. In food vendor fraud, the opportunity for

profit is immense, the probability of being caught is low, and the penalties are minimal. These three conditions create an ideal business environment in which criminal organizations can prosper.

In order to minimize opportunities for cheating on weights and measures, it is important that employees accepting deliveries perform item counts and check purchase orders carefully. In addition, inquiries should be made about a food product's place of origin as well as the verification process used by the vendor.

Food service fraud

Unscrupulous food vendors are not the only swindlers preying on school districts. Some food service providers also may engage in fraudulent practices. For example, many food service contracts call for districts to make monthly payments for the cost of meals served plus a preset, negotiated profit margin. Simply inflating the meal count can result in passing on significant fraudulent costs to the district.

Naturally, problems arise when districts have no method to independently confirm the actual number of meals provided. Consider verifying the number of meals served by having a district employee randomly monitor meal service with a simple handheld tally counter costing less than \$5. The meal count then can be compared to the number the company reports serving that day.

Another scam involves rebates and discounts. Typically, local food service managers are instructed to channel all food purchases to a limited number of approved vendors, who in turn send monthly supply bills to document pur-

chases. Food service providers use these to calculate charges for the school district.

Some service providers manipulate this system. By channeling orders through fewer vendors, some companies negotiate substantial rebates or discounts. These are usually calculated on the volume of purchases during a three-month period. Rebates are typically forwarded directly to the food service company headquarters. Problems arise when the savings are not passed on to the school districts.

For example, in July 2010, the New York State Attorney General announced that one food service provider agreed to pay \$20 million in a settlement resulting from its failure to pass along vendor rebates to 21 school districts and the State University of New York. Two brothers working for the service provider discovered the fraud. They said vendors gave the company volume discounts, but it did not pass the savings on to its client districts.

According to the Attorney General, these discounts amounted to about 14 percent of purchases. Without the whistleblowers, this fraud would have been invisible to the districts.

District administrators can ensure that contracts negotiated with food service providers contain a clause requiring all rebates and discounts to be passed along to the school district. In addition, it is important to include a clause giving the district the right to audit the service provider's billing procedures. The anticipation of a billing process audit may be an effective deterrent to those considering defrauding the district.

Federal program noncompliance

Board members must also be aware of possible lax compliance with federal National School Lunch Program regulations. The federal school lunch program serves meals to 31 million children at a taxpayer cost of \$8 billion a year. The program was designed to

ensure that public and private school students from low-income families are provided with the necessary nutrition to succeed in their studies.

Under this program, children from households earning below the federal poverty level qualify for free or reduced-price meals at school. In addition, if they live within designated areas, they also may be eligible to participate in other means-tested government programs such as food stamps and other assistance.

The U.S. Department of Agriculture (USDA) reimburses school districts for each free or discounted meal served. In order to encourage participation, no proof of income is required. Parent or guardian applicants simply certify that the income they report is accurate.

However, some districts have been overzealous in their efforts to recruit students. For example, some urge families to submit applications for the federal school lunch program with little regard to family income or entitlement. One Missouri district offered families a \$10 Wal-Mart gift card for filling out an application.

Federal school lunch regulations require districts to verify 3 percent of applications or 3,000 applications, whichever number is lower. No parent interview is required and proof of income may be provided by mail. In cases where there is no parent response, an inaccurate or fraudulent application may result. If errors are found, benefits to the applicant may be reduced or terminated.

Although the application warns that adults may be prosecuted if information is purposefully falsified, it is not clear which government agency would be responsible for the prosecution. Therefore, there is little incentive to be accurate. However, there is incentive to inflate approved applications.

Because federal school lunch participation rates are used by most states to allocate state aid, some administrators may be tempted to manipulate program

participation. The federal government also uses participation rates to allocate E-rate funds that provide telecommunication and Internet services to high-need districts.

In addition, free and reduced-price lunch rates determine Title I funds used for professional development and instructional materials used to promote parental involvement. Figures derived from participation also are used to monitor compliance with No Child Left Behind benchmarks as well as to track the academic performance of low-income students.

Unfortunately, these interlocking relationships provide significant incentives to manipulate participation rates. It is estimated that 15 percent of students enrolled in the federal school lunch program receive more benefits than they are entitled to because their reported income is inaccurate. These errors add \$1 billion annually to program costs.

In order to provide all eligible students the opportunity to participate, board members must be certain administrators receive training in federal regulations, and establish procedures to ensure that students receive all the benefits to which they are entitled without the district engaging in fraudulent behavior. Information about the program and its regulations is available from the USDA and your state department of education.

Food fraud is nothing new. Board members can protect their district by encouraging administrators to be aware of fraud risks, get appropriate training, and ask tough questions. Such measures will help your district get its just desserts and prevent corporate bullies from eating your lunch. ■

Charles K. Trainor, an *ASBJ* contributing editor, is a certified fraud examiner and certified internal auditor. He is president of Management Audit Consultants, Inc. (www.mgmtaudit.com) and served for 21 years on a school board in New York state.