

210 CONFLICT OF INTEREST – BOARD OF EDUCATION MEMBERS

I. PURPOSE

The purpose of this policy is to observe state statutes regarding conflicts of interest and to engage in school district business activities in a fashion designed to avoid any conflict of interest or the appearance of impropriety.

II. GENERAL STATEMENT OF POLICY

It is the policy of the Board of Education to contract for goods and services in conformance with statutory conflict of interest laws and in a manner that will avoid any conflict of interest or the appearance thereof. Accordingly, the Board of Education will contract under the statutory exception provisions only when it is clearly in the best interest of the school district because of limitations that may exist on goods or services otherwise available to the school district.

III. GENERAL PROHIBITIONS AND RECOGNIZED STATUTORY EXCEPTIONS

A. A Board of Education member who is authorized to take part in any manner in making any sale, lease, or contract in his or her official capacity shall not voluntarily have a personal financial interest in that sale, lease, or contract or personally benefit financially therefrom.

B. In the following circumstances, however, the Board of Education may as an exception, by unanimous vote, contract for goods or services with a Board of Education member of the school district:

1. In the designation of a bank or savings association, in which a Board of Education member is interested, as an authorized depository for school district funds and as a source of borrowing, provided such deposited funds are protected in accordance with Minn. Stat. Ch. 118A. Any Board of Education member having said interest shall disclose that interest and the interest shall be entered upon the minutes of the Board of Education. Disclosure must be made when such bank or savings association is first designated as a depository or source of borrowing, or when such Board of Education member is elected, whichever is later. Disclosure serves as notice of the interest and must only be made once;

2. The designation of an official newspaper, or publication of official matters therein, in which the Board of Education member is interested when it is the only newspaper complying with statutory requirements relating to the designation or publication;

3. A contract with a cooperative association of which the Board of Education member is a shareholder or stockholder but not an officer or manager;

4. A contract for which competitive bids are not required by law. A contract made under this exception will be void unless the following procedures are observed:

- a. The Board of Education must authorize the contract in advance of its performance by adopting a resolution setting out the essential facts and determining that the contract price is as low as or lower than the price at which the goods or services could be obtained elsewhere.

- b. In the case of an emergency when the contract cannot be authorized in advance, payment of the

claims must be authorized by a like resolution wherein the facts of the emergency are also stated.

c. Before a claim is paid, the interested Board of Education member must file with the clerk of the Board of Education an affidavit stating:

- (1) The name of the Board of Education member and the office held;
- (2) An itemization of the goods or services furnished;
- (3) The contract price;
- (4) The reasonable value;
- (5) The interest of the Board of Education member in the contract; and
- (6) That to the best of the Board of Education member's knowledge and belief, the contract price is as low as, or lower than, the price at which the goods or services could be obtained from other sources.

5. A Board of Education member may rent space in a public facility at a rate commensurate with that paid by other members of the public.

C. In the following circumstances, the Board of Education may as an exception, by majority vote at a meeting where all Board of Education members are present, contract for services with a Board of Education member of the school district: A Board of Education member may be newly employed or may continue to be employed by the school district as an employee where there is a reasonable expectation on July 1, or at the time the contract is entered into or extended, that the amount to be earned by that Board of Education member under that contract or employment relationship, will not exceed \$8,000 in that fiscal year. If the Board of Education member does not receive majority approval to be initially employed or to continue in employment at a meeting where all Board of Education members are present, that employment must be immediately terminated and that Board of Education member will have no further rights to employment while serving as a Board of Education member in the school district.

D. The Board of Education may contract with a class of school district employees, such as teachers or custodians, where the spouse of a Board of Education member is a member of the class of employees contracting with the Board of Education and the employee spouse receives no special monetary or other benefit that is substantially different from the benefits that other members of the class receive under the employment contract. In order for the Board of Education to invoke this exception, it must have a majority of disinterested Board of Education members vote to approve the contract, direct the Board of Education member spouse to abstain from voting to approve the contract, and publicly set out the essential facts of the contract at the meeting where the contract is approved.

IV. LIMITATIONS ON RELATED EMPLOYEES

A. The Board of Education can hire or dismiss teachers only at duly called meetings. Where a husband and wife, brother and sister, or two brothers or sisters, constitute a quorum, no contract employing a teacher may be made or authorized except upon the unanimous vote of the full Board of Education.

B. The Board of Education may not employ any teacher related by blood or marriage to a Board of Education member, within the fourth degree as computed by the civil law, except by a unanimous vote of the full Board of Education.

V. CONFLICTS PRIOR TO TAKING OFFICE

A Board of Education member with personal financial interest in a sale, lease, or contract with the school district which was entered before the Board of Education member took office and presents an actual or potential conflict of interest, shall immediately notify the Board of Education of such interest. It shall thereafter be the responsibility of the Board of Education member to refrain from participating in any action relating to the sale, lease, or contract. At the time of renewal of any such sale, lease, or contract, the Board of Education may enter into or renew such sale, lease, or contract only if it falls within one of the enumerated exceptions for contracts relating to goods or services provided above and if the procedures provided in this policy are followed.

VI. DETERMINATION AS TO WHETHER A CONFLICT OF INTEREST EXISTS

The determination as to whether a conflict of interest exists is to be made by the Board of Education. Any Board of Education member who has an actual or potential conflict shall notify the Board of Education of such conflict immediately. The Board of Education member shall thereafter cooperate with the Board of Education as necessary for the Board of Education to make its determination.

Legal References: Minn. Stat. § 122A.40, Subd. 3 (Teacher Hiring, Dismissal)
Minn. Stat. § 123B.195 (Board Member's Right to Employment)
Minn. Stat. § 471.87 (Public Officers; Interest in Contract; Penalty)
Minn. Stat. § 471.88, Subds. 2, 3, 4, 5, 12, 13, and 21 (Exceptions)
Minn. Stat. § 471.89 (Contract, When Void)
Op. Atty. Gen. 437-A-4, March 15, 1935
Op. Atty. Gen. 90-C-5, July 30, 1940
Op. Atty. Gen. 90-A, August 14, 1957