

## Conflict of Interest

7220

Any member of the board of education of this school district who meets the conditions set forth in this policy shall be deemed as having a business or financial conflict of interest and should file conflict of disclosure with the Nebraska Accountability and Disclosure Commission (NADC), hereafter referred to as the commission.

No board member of this school district or member of his or her immediate family shall enter into a contract valued at two thousand dollars or more, in any one year, with this school district unless the contract is awarded through an open and public process which includes prior public notice and subsequent availability for public inspection during the regular office hours of the school district.

The existence of any conflict of interest in any contract, or the failure to make public the board member's interest, may render a contract null and void. This prohibition of conflict of interest or requirement for the board member to make public notice shall apply when the board member, or his or her immediate family (parent, spouse, or child), has a business association with the school district or will receive a fee or commission as a result of the contract.

Business with which a board member is associated shall include the following:

- I. A business in which the board member, or a member of his or her immediate family, is a partner, a limited liability company, or serves as a director, or an officer.
- II. A business in which the board member, or a member of his or her immediate family, is a stockholder in a closed corporation with stock worth one thousand dollars or more, or he or she, or his or her immediate family, owns more than a five percent equity interest, or is a stockholder of publicly traded stock worth more than ten thousand dollars or more at fair market value, or which represents more than ten percent equity interest. This shall not apply to publicly traded stock under a trading account if the board member reports the name and address of the company and stockbroker.

A business association shall be defined to include an individual as a partner, limited liability company member, director or officer, or a business in which the individual or member of the immediate family is a stockholder.

### Employing Members of the Immediate Family.

- I. If a member of a board member's immediate family is an employee of this school district the board member may vote on all issues of a contract which are generally applicable to:
  - A. All district employees
  - B. All employees within a specific classification but which does not single out the member of his or her immediate family.

- II. A member of the board of education may recommend for employment or supervise the employment of an immediate family member if:
  - A. The board member does not abuse his or her position.
    - 1. Abuse of official position shall include but not be limited to employing an immediate family member
      - a. who is not qualified for and able to perform the duties of the position.
      - b. for any unreasonable high salary.
      - c. who is not required to perform the duties of the position.
  - B. The board of education makes a reasonable solicitation and consideration of applications for employment.
  - C. The board member makes full disclosure on the record to the governing body of the school district and to the secretary of the board of education for the school district.
    - 1. If the secretary of the board of education would be the individual filing the disclosure statement, the statement shall be filed with the president of the board of education.
  - D. The board of education approves the employment or supervisory position.
- III. The board of education shall not employ an immediate family member without first having made a reasonable solicitation and consideration of applications for such employment.
- IV. The board of education has not terminated the employment of another employee so as to make funds or a position available for the purpose of hiring an immediate family member.

#### A Financial or Non-Financial Benefit for the Board Member or a Family Member

A conflict of interest exists when a board member takes any action or makes any decision in the discharge of his or her official duties that may cause a financial or a non-financial benefit or detriment to him or her, a member of his or her immediate family, or a business with which he or she is associated, which is distinguishable from the effects of such action on the public generally or a broad segment of the public.

As soon as a board member becomes aware of a conflict based on a potential financial benefit or detriment, he or she must follow the steps outlined in the Conflict of Interest Statement section of this policy.

If the conflict is based on a non-financial benefit or detriment, the board member should abstain from taking action on the matter in question.

Gifts, Loans, Contributions, Rewards, Employment, or Promises of future Employment.

- I. No member of the board of education shall offer or give to the following persons anything of value, including a gift, loan, contribution, reward, or promise of future employment, based upon an agreement that a vote, official action, or judgment would be influenced thereby:
  - A. A public official, public employee, or candidate.
  - B. A member of the immediate family of an individual listed Subparagraph 'A' above.
  - C. A business with which an individual listed in Subparagraph 'A' or 'B' above is associated.
- II. No member of the board of education shall solicit or accept anything of value, including a gift, loan, contribution, reward, or promise of future employment based on an agreement that the vote, official action, or judgment of the board member would thereby be influenced.
- III. A member of this board of education shall not use or authorize the use of, for personal financial gain, gain of a member of his or her immediate family, or financial gain for a business with which he or she is associated, other than compensation provided by law,
  - A. That person's public office or any confidential information received through the holding of the public office.
  - B. Personal, resources, property, or funds under that person's official care and control other than in accordance with prescribed constitutional, statutory, and regulatory procedures.

Conflict of Interest Relating to Campaigning or Political Issues.

Except as provided below the board of education shall not authorize the use of personnel, property, resources, or funds under its jurisdiction for the purpose of campaigning for or against the nomination or election of a candidate or the qualification, passage, or defeat of a ballot question.

- I. This does not prohibit the board of education from making school district facilities available to a person for campaign purposes if the identity of the candidate or the support for or opposition to the ballot question is not a factor in making the facilities available or a factor in determining the cost or conditions for use.

- II. This does not prohibit the board of education from discussing and voting upon a resolution supporting or opposing a ballot question.
- III. This does not prohibit the board of education, while legally seated as a body, from responding to specific inquiries by the press or the public as to the board's opinion regarding a ballot question or from providing information in response to a request for information.
  - A. The board of education may designate one or more members of its body, or one or more of its school administrators, to speak on behalf of the board of education on specific occasions such as public meetings or legislative hearings.
  - B. Any member of the board of education may present his or her personal opinion regarding a ballot question or respond to a request for information related to a ballot question, but in so doing the person should clearly state that the information being presented is his or her personal opinion and is not to be considered as the official position or opinion of the board of education. However, this shall not be done during a time that the individual is engaged in his or her official duties.

#### Conflict of Interest Statement.

If a school board member has a potential conflict of interest he or she is required to take the following action as soon as he or she is aware of such potential conflict or should be aware of such potential conflict:

- I. Prepare a written statement describing the matter requiring action or decision and the nature of the potential interest. (Use NADC Form C-2)
- II. Deliver a copy of the statement to the NADC and to the secretary of the board of education.
  - A. The secretary of the board of education shall enter the statement into the school board minutes.
- III. After the Commission responds to the board member's disclosure, the board member must follow the Commission's advice on how to handle the conflict.

The actions set forth in Paragraphs I, II, and III above shall not prevent a board member from making or participation in the making of a governmental decision to the extent that his or her participation is legally required for the action or decision to be made. A board member acting pursuant to this section shall report the occurrence to the NADC.

#### Record keeping.

The secretary of the board of education shall maintain a separate record of the following information:

- I. The names of the contracting parties.
- II. The nature of the interest of the board member in question.
- III. The date that the contract was approved.
- IV. The amount of the contract.
- V. The basic terms of the contract.

The information supplied relative to the contract shall be provided no later than ten (10) days after the contract has been signed by both parties. The ledger kept by the secretary of the board of education shall be available for public inspection during normal working hours of the office in which it is kept.

No member of the board of education shall be employed as a teacher in this school district.

Any action must be brought within one year after the contract is signed or assigned to have that contract declared void as a result of a conflict of interest.

Legal References:

§49-1408	Business With Which the Individual is Associated or Business Association, Defined.
§49-14,103.01	Officer, Defined, Interest in Contract Prohibited, When.
§49-14,103.02	Contract with Officer, Information Required, Ledger Maintained.
§49-14,103.03	Open Account with Officer, How Treated
§49-14,i03.05	Governing Body, Prohibit Certain Contracts.
§49-14,103.06	Governing Body, Exempt Certain Contracts.
§79-544	School Board Members, Employment as Teacher Forbidden.
§79-818	School Board, Employment of Teachers and Administrators, Contracts, How Executed, Prohibitions.