

210 **CONFLICT OF INTEREST – SCHOOL BOARD OF EDUCATION MEMBERS**

[NOTE: The provisions of this policy substantially reflect legal requirements.]

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 school board 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 school board 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 school board 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 school board may as an exception, by unanimous vote, contract for goods or services with a Board of Education school board member of the school district:
 1. In the designation of a bank or savings association, in which a Board of Education school board 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 Minnesota Statutes, chapter 118A. Any Board of Education school board member having said interest shall disclose that interest and the interest shall be entered upon the school board minutes of the Board of Education. Disclosure shall be made when such bank or savings association is first designated as a depository or source of borrowing, or when such Board of Education school board member is elected, whichever is later. Disclosure serves as notice of the interest and need only be made once;
 2. The designation of an official newspaper, or publication of official matters therein, in which the Board of Education school board 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 school board 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 school board shall authorize the contract in advance of its performance by adopting a resolution setting out the

56 essential facts and determining that the contract price is as low as or
57 lower than the price at which the goods or services could be obtained
58 elsewhere.

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60 b. In the case of an emergency when the contract cannot be authorized in
61 advance, payment of the claims must be authorized by a like resolution
62 wherein the facts of the emergency are also stated.

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64 c. Before a claim is paid, the interested ~~Board of Education~~ school board
65 member shall file with the clerk of the ~~Board of Education~~ school board an
66 affidavit stating:

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68 (1) The name of the ~~Board of Education~~ school board member and the
69 office held;

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71 (2) An itemization of the goods or services furnished;

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73 (3) The contract price;

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75 (4) The reasonable value;

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77 (5) The interest of the ~~Board of Education~~ school board member in the
78 contract; and

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80 (6) That to the best of the ~~Board of Education~~ school board member's
81 knowledge and belief, the contract price is as low as, or lower
82 than, the price at which the goods or services could be obtained
83 from other sources.

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

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88 C. In the following circumstances, the ~~Board of Education~~ school board may as an exception,
89 by majority vote at a meeting at which all school board members are present, contract
90 for services with a ~~Board of Education~~ school board member of the school district: A ~~Board~~
91 ~~of Education~~ school board member may be newly employed or may continue to be
92 employed by the school district as an employee only if there is a reasonable expectation
93 on July 1, or at the time the contract is entered into or extended, that the amount to be
94 earned by that ~~Board of Education~~ school board member under that contract or
95 employment relationship, will not exceed \$20,000 in that fiscal year. If the ~~Board of~~
96 ~~Education~~ school board member does not receive majority approval to be initially
97 employed or to continue in employment at a meeting at which all school board members
98 are present, that employment is immediately terminated and that ~~Board of~~
99 ~~Education~~ school board member has no further rights to employment while serving as a
100 ~~Board of Education~~ school board member in the school district.

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104 D. The ~~Board of Education~~ school board may contract with a class of school district
105 employees, such as teachers or custodians, when the spouse of a ~~Board of~~
106 ~~Education~~ school board member is a member of the class of employees contracting with
107 the ~~Board of Education~~ school board and the employee spouse receives no special
108 monetary or other benefit that is substantially different from the benefits that other
109 members of the class receive under the employment contract. ~~In order for~~ For the ~~Board~~
110 ~~of Education~~ school board to invoke this exception, it must have a majority of disinterested

~~Board of Education~~school board members vote to approve the contract, direct the ~~Board of Education~~school board member spouse to abstain from voting to approve the contract, and publicly set out the essential facts of the contract at the meeting in which the contract is approved.

IV. LIMITATIONS ON RELATED EMPLOYEES

- A. The ~~Board of Education~~school board must hire or dismiss teachers only at duly called meetings.- When 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-~~school board.
- B. The ~~Board of Education~~school board may not employ any teacher related by blood or marriage to a ~~Board of Education~~school board member, within the fourth degree as computed by the civil law, except by a unanimous vote of the full ~~Board of Education-~~school board.

V. CONFLICTS PRIOR TO TAKING OFFICE

A ~~Board of Education~~ school board member with personal financial interest in a sale, lease, or contract with the school district which was entered before the ~~Board of Education~~school board member took office and presents an actual or potential conflict of interest, shall immediately notify the ~~Board of Education~~school board of such interest. -It shall thereafter be the responsibility of the ~~Board of Education~~school board 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~~school board 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-~~school board. Any ~~Board of Education~~school board member who has an actual or potential conflict shall notify the ~~Board of Education~~school board of such conflict immediately. -The ~~Board of Education~~school board member shall thereafter cooperate with the ~~Board of Education~~school board as necessary for the ~~Board of Education~~school board to make its determination.

Legal References:- Minn. Stat. § 122A.40, Subd. 3 (Employment; Contracts; Termination)
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

Cross References: ISD 194 Policy 201 (Legal Status of the School Board)
ISD 194 Policy 209 (Code of Ethics)