



210 CONFLICT OF INTEREST SCHOOL BOARD 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 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 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 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.~~
A school board member who is authorized to participate in making a decision regarding a sale, lease, or contract in their official capacity shall not have a personal financial interest in, or personally benefit financially from, the sale, lease, or contract. A school board member who violates this provision is guilty of a gross misdemeanor according to MN Statute 471.87.
- B. In the following circumstances, however, the school board may as an **exception, by unanimous vote**, contract for goods or services with a school board member of the school district:
1. In the designation of a bank or savings association, in which a 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 school board member having said interest shall disclose that interest and the interest shall be entered upon the school board minutes. Disclosure shall be made when such bank or savings association is first designated as a depository or source of borrowing, or when such 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 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 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 school board shall 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 school board member shall file with the clerk of the school board an affidavit stating:
 - (1) The name of the school board 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 school board member in the contract; and
 - (6) To the best of the school board 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.

~~A school board member may contract with the school district to provide construction materials or services, or both, when the sealed bid process is used. When the contract comes before the school board for consideration, the interested school board member may not vote on the contract.~~

5. A school board member may rent space in a public facility **provided the member pays the same rental rate and is subject to the same terms and conditions applicable to** ~~at a rate commensurate with that paid by other members of the public.~~
- C. ~~In the following circumstances, the school board may as an exception, by majority vote at a meeting at which all school board members are present, contract for services with a school~~

~~board member of the school district. A school board member may be newly employed or may continue to be employed by the school district as an employee only if 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 school board member under that contract or employment relationship, will not exceed \$20,000 in that fiscal year. If the school board member does not receive majority approval to be initially employed or to continue in employment at a meeting at which all school board members are present, that employment is immediately terminated and that school board member has no further rights to employment while serving as a school board member in the school district.~~As an exception to the conflict of interest provisions of this policy, the school district may employ a school board member, or continue a school board member's existing employment, if all of the following requirements are met:

1. All school board members are present at the meeting when the employment is considered;
 2. A majority of the school board approves the employment; and;
 3. There is a reasonable expectation, at the beginning of the fiscal year or when the employment contract is entered into or extended, that the school board member will not earn more than \$20,000 from the district during that fiscal year.
 4. If the school board does not approve the initial or continued employment by a majority vote at a meeting at which all school board members are present, the employment terminates immediately, and the school board member has no further employment rights with the district while serving on the school board.
- D. ~~The school board may contract with a class of school district employees, such as teachers or custodians, when the spouse of a school board member is a member of the class of employees contracting with the school board 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. For the school board to invoke this exception, it must have a majority of disinterested school board members vote to approve the contract, direct the 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.~~The school board may enter into a contract with a class of school district employees, such as teachers or custodians, when the spouse of a school board member is a member of that class, provided the spouse receives no special monetary or other benefit that is substantially different from the benefits received by other members of the class.

To invoke this exception:

1. A majority of disinterested school board members must vote to approve the contract;
2. The school board member whose spouse is a member of the employee class must abstain from voting on the contract; and
3. The essential facts of the contract must be publicly disclosed at the meeting at which the contract is approved.

IV. LIMITATIONS ON RELATED EMPLOYEES

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

V. CONFLICTS PRIOR TO TAKING OFFICE

~~A school board member with personal financial interest in a sale, lease, or contract with the school district which was entered before the school board member took office and presents an actual or potential conflict of interest, shall immediately notify the school board of such interest. It shall thereafter be the responsibility of the 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 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.~~A school board member who has a personal financial interest in a school district sale, lease, or contract entered into before the member took office that presents an actual or potential conflict of interest shall:

- A. Promptly disclose the financial interest to the school board; and
- B. Refrain from participating in any action relating to the sale, lease, or contract.

Upon renewal, the school board may enter into or renew the sale, lease, or contract only if it qualifies for an applicable exception as listed in Section III above for contracts involving goods or services under this policy and all required procedures 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 school board. Any school board member who has an actual or potential conflict shall notify the school board~~

~~of such conflict immediately. The school board member shall thereafter cooperate with the school board as necessary for the school board to make its determination.~~ The school board shall determine through a majority vote whether a conflict of interest exists. A school board member who has an actual, potential, or perceived conflict of interest shall promptly disclose the circumstances giving rise to the conflict to the whole board. The board member shall cooperate as necessary to allow the 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 200 Policy 201 (Legal Status of the School Board)*
ISD 200 Policy 209 (Code of Ethics)

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