Conflict of Interest - School Board Members

I. Purpose

This policy reflects state statutes regarding conflicts of interest and engagement in school district business activities in a manner designed to avoid any conflict of interest or the appearance of impropriety.

II. General Statement of Policy

The school district contracts 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 of a conflict of interest.

III. General Prohibitions and Recognized Statutory Exceptions

A. A school board member who is authorized to take part in any manner in making a sale, lease, or contract in ~~his or her~~ their official capacity ~~must~~ will not have a personal financial interest in that sale, lease, or contract or personally benefit financially from that interest.

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

1. In the designation of a bank or savings association, in which a board member is interested, as an authorized depository for district funds and as a source of borrowing, provided such deposited funds are protected in accordance with ~~Minn. Stat. Ch. 118A~~ state law. A board member having an interest must disclose that interest and the disclosed interest will be entered upon the minutes of the board. Disclosure must be made when the bank or savings association is first designated as a depository or source of borrowing, or when the 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 in the newspaper, in which the 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 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 ~~must~~ will 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~~ will be authorized by a like resolution in which the facts of the emergency are also stated.

        Before a claim is paid, the interested school board member must file with the clerk of the ~~school~~ board an affidavit stating:

        i. The name of the board member and the office held;

        ii. An itemization of the goods or services furnished;

        iii. The contract price;

        iv. The reasonable value;

        v. The interest of the board member in the contract; and

        vi. ~~That t~~ To the best of the 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.

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

C. In the following circumstances, the board may as an exception, by majority vote at a meeting where all board members are present, contract for services with a board member of the school district. A board member may be newly employed or may continue to be employed by the 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 board member under that contract or employment relationship, will not exceed $20,000 in that fiscal year. If the board member does not receive majority approval to be initially employed or to continue in employment at a

meeting where all board members are present, that employment will be immediately terminated, and that board member has no further rights to employment while serving as a board member in the district.

D. The board may contract with a class of district employees, such as teachers or custodians, when the spouse of a board member is a member of the class of employees contracting with the 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 board to invoke this exception, it must have a majority of disinterested board members vote to approve the contract, direct the 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 of Related Employees

A. The school board must hire or dismiss teachers only at duly called meetings. When ~~a husband and wife,~~ spouses, a 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.

B. The board may not employ any teacher related by blood or marriage to a board member, within the fourth degree as computed by the civil law, except by a unanimous vote of the full 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 that was entered before the board member took office and presents an actual or potential conflict of interest, must immediately notify the board of this interest. It is the responsibility of the board member to refrain from participating in an action relating to the sale, lease, or contract. At the time of renewal of any such sale, lease, or contract, the 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 school board. A board member who has an actual or potential conflict must notify the board of the conflict immediately. The board member must cooperate with the board as necessary for the board to make its determination.

Legal References

Minn. Stat. Ch. 118A	Deposit and Investment of Local Public Funds
Minn. Stat. § 122A.40, subd. 3	~~Board Member's Right to Employment~~ Employment; Contracts; Termination: Hiring; Dismissing
Minn. Stat. § 123B.195	~~Public Officers; Interest in Contract; Penalty~~ Board Members' 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

Policy 101	Legal Status of the School Board
Policy 209	School Board Member Code of Ethics

Policy

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